

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 12 February 2019 at 6:00 pm.**

ON-SITE INSPECTIONS

On-site inspection/s will precede the meeting.

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

- 4.1 Minutes of the Bayside Local Planning Panel Meeting - 11 December 20183
- 4.2 Minutes of the Bayside Local Planning Panel Meeting - 18 December 201814

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

- 6.1 DA-2014/146/A - 280 Coward Street, Mascot28
- 6.2 DA-2018/218 - DA-2018/218 - 376-378 Rocky Point Road, Sans Souci87
- 6.3 DA-2017/190 - DA-2017/190 - 117 Forest Road, Arncliffe165
- 6.4 DA-2017/1224/2 - DA-2017/1224/3- 130-150 Bunnerong Road Eastgardens210

6.5 DA-2017/1224/3 - DA-2017/1224/4- 130-150 Bunnerong Road
Eastgardens287

6.6 SF19/386 - DA-2016/165/02 - 19-25 Robey Street, Mascot349

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

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

12/02/2019

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 11 December 2018
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/2962

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, Wollli 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.

Bayside Local Planning Panel

12/02/2019

Item No	4.2
Subject	Minutes of the Bayside Local Planning Panel Meeting - 18 December 2018
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/2962

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 18 December 2018 be confirmed as a true record of proceedings.

Present

Robert Montgomery, Chairperson and Independent Expert Member
Marcia Doheny, Independent Expert Member
Stephen Moore, Independent Expert Member
Jesse Hanna, Community Representative

Also Present

Michael McCabe, Director City Futures
Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Pascal Van De Walle, Coordinator Development Assessment
Christopher Mackay, Coordinator Development Assessment
Ben Latta, Coordinator Development Assessment
Michael Maloof, Senior Development Assessment Planner
Patrick Nash, Senior Development Assessment Planner
Angela Lazaridis, Senior Development Assessment Planner
Andrew Ison, Senior Development Assessment Planner
Kimberley Bautista, Student Planner
Ayse Kiziltekin, Student Planner
Anne Suann, Governance Officer

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

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

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 confirmed as a true record of proceedings.

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 confirmed as a true record of proceedings.

4.3 Minutes of the Bayside Local Planning Panel Meeting - 11 December 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 11 December 2018 be deferred until the next meeting of the Panel.

5 Reports – Planning Proposals

Nil

6 Reports – Development Applications

6.1 DA-2018/92 - 17/21-25 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.
- Ms Fangu Hsu, owner, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

That the Development Application No. DA-2018/92 for alterations and additions to Unit 17 is 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 and the following additional conditions:

- 1 The unauthorised building works carried out to the residential unit shall be upgraded, if required, in accordance with the provisions of the Building Code of Australia (BCA).
- 2 A Building Information Certificate shall be obtained prior to occupation of the unauthorised building works.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The applicant has addressed the additional matters requested at the previous Panel meeting. In particular, it is noted that a fresh Building Information Certificate was made which was accompanied by an Engineer's Certificate.
- The application complies with the relevant statutory requirements.
- The Panel agrees with the officer's recommendation in relation to any numerical car parking shortfall brought about by the development.

6.2 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, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Development Application No. DA-2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale is 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 and the following additional conditions:
 - a The unauthorised building works carried out to the residential unit shall be upgraded, if required, in accordance with the provisions of the Building Code of Australia (BCA).
 - b A Building Information Certificate shall be obtained prior to occupation of the unauthorised building works.
- 2 That the objector 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"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The applicant has addressed the additional matters requested at the previous Panel meeting. In particular, it is noted that a fresh Building Information Certificate was made which was accompanied by an Engineer's Certificate.
- The application complies with the relevant statutory requirements.
- The Panel agrees with the officer's recommendation in relation to any numerical car parking shortfall brought about by the development.

6.3 DA-17/1249 - DA-2017/1249 - 1 Baker Street, Banksmeadow

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

The following people spoke:

- Mr Jordan Rodgers, affected neighbour, spoke for the officer's recommendation.
- Mr Adnan Voloder, Planning & Development Manager, (NSW & ACT), Boral Land & Property Group, Boral Resources (NSW) Pty Ltd, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr Phillip Mallam, Boral Resources (NSW) Pty Ltd, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr Simon Ball, Solicitor from Minter Ellison, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr Terry Lawrence, Transport and Urban Planning, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr Aleks Todoroski, Todoroski Air Sciences, spoke against the officer's recommendation and responded to the Panel's questions.

Determination

That this item be deferred for the following reasons:

- 1 To allow the Council to facilitate peer reviews of the traffic and air quality reports.
- 2 To allow the applicant an opportunity for further discussion with Council's planning staff in relation to the matters raised in the draft reasons for refusal.
- 3 To allow the applicant an opportunity to address in more detail the objectives and provisions of the Three Ports SEPP.
- 4 To allow more precise information to be provided in respect to the timing of the signalisation of the intersection of Baker and Wentworth Streets.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Deferral

- The Panel is of the view that clarification and review of the specialist traffic and air quality reports is required prior to determining the application.
- The reasons listed in the decision above.
- The Panel notes that the provision of a signalised intersection is a requirement for this development to proceed and therefore it is critical to understand the timing of the works.

6.4 DA-2018/223 - 29-31 Campbell Street, Ramsgate

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

The following people were present:

- Mr Bernard Moroz, Town Planner
- Mr Shane Youssef, Project Manager
- Mr William Karavelas, applicant

Determination

- 1 That the panel has considered the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and is 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 is 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 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"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel agrees with the reasons in the officer's report.

6.5 SF18/2455 - DA-2015/221/02 - 41-45 Rhodes Street, Hillsdale

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

The following person spoke:

- Mr David Li, builder, Asranda Apartments, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 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 for Saturdays to 2.00 pm.
- 2 That any objectors be notified of the determination made by the Bayside Local Planning Panel.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The extension of Saturday construction hours to 2.00 pm is a reasonable balance between the need to maximise construction hours and protect surrounding residential amenity. The Panel notes that the extended hours will effectively shorten the overall construction period.

6.6 DA-2018/120 - 7-9 Kingsland Road South, Bexley

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

The following people spoke:

- Mr Anthony Betros, town planner, spoke against the officer's recommendation and responded to the Panel's questions.

- Mr Danny Chalabi, architect, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr Michael Trinh, architect, spoke against the officer's recommendation and responded to the Panel's questions.

Determination

- 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 is **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.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel agrees with the reasons for refusal as presented in the Council officer's report.
- The Panel acknowledges that the applicant requested deferral of the application to effect some changes. However, the Panel is not satisfied that those changes will resolve all of the outstanding matters.

6.7 SF18/2374 - DA-2017/1189 - 1170-1172 Botany Road, Botany

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

Determination

- 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, is 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 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 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.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel agrees with the reasons for refusal as presented in the Council officer's report.

6.8 SF18/2589 - DA-2014/235/2 - 109 Baxter Road, Mascot

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

The following people were present:

- Mr Simon Hanson, architect from Bureau SRH Pty Limited
- Mr Adam Byrnes, planner from Think Planners

Determination

That the Section 4.55(1A) application for the Amendments to the approved commercial development is APPROVED as follows:

- modify Condition 1 relating to approved plans;
- modify Condition 6(a) relating to the modified building height; and
- modify Condition 11 to amend the development contributions.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel supports the non-compliance of the Height of Building and Floor Space Ratio development standards. It is noted that the modification results in no changes to the building footprint and produces no additional environmental impacts as compared to the development originally approved.
- The Panel is satisfied that the development as modified is substantially the same as the development originally approved.

The Chairperson closed the meeting at 8.25 pm.

Bayside Local Planning Panel

12/02/2019

Item No	6.1
Application Type	Development Application
Application No	BDA-2014/146/A
Lodgement Date	03/01/2019
Property	280 Coward Street, Mascot
Ward	Port Botany
Owner	JKN Coward P/L
Applicant	Toplace Pty Ltd
Proposal	Modification to Conditions 42 and 44
No. of Submissions	0
Cost of Development	0
Report by	Michael McCabe, Director of City Futures

Officer Recommendation

The Section 4.55(1A) application for the Modification of Conditions 42 and 44 is APPROVED subject to the following:

- a) Modify Condition 42 relating to the Builders Security Deposit.
 - b) Modify Condition 44 relating to the Damage Deposit.
-

Location Plan



Attachments

- 1 Planning report [↓](#)
- 2 Statement of Environmental Effects [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	BDA-2014/146/A
Date of Receipt:	3 January 2019
Property:	280 Coward Street, Mascot
Lot & DP/SP No:	Lot 101 in DP 1241951
Owner:	JKN Coward P/L
Applicant:	Toplace Pty Ltd
Proposal:	Amend conditions 42 and 44 in relation to the value of the builders damage deposit
Recommendation:	Approval subject to amended conditions
Value:	Nil
Zoning:	B2 Local Centre under the Botany Bay Local Environmental Plan 2013
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	12 February 2019

Key Issues

The key issues relate to the following:

- The amendment of conditions 42 and 44 in relation to the builders security deposit as the approved development has been downsized by way of a stratum subdivision.

Recommendation

1. That the Section 4.55(1A) application for the Modification of Conditions 42 and 44 is **APPROVED** subject to the following:
 - (a) Modify Condition 42 relating to the Builders Security Deposit.
 - (b) Modify Condition 44 relating to the Damage Deposit.

Site Description

The subject site is commonly known as 280 Coward Street, Mascot (Lot 1 in DP 701026). It is located on the northern side between Kent Road to the west and Bourke Road to the east. The site is rectangular in shape, an area of 3,074m², and at the time of the writing of this report has an approved mixed use development under construction. The surrounding area is characterised primarily by various forms of residential accommodation, generally shop top housing developments, as well as a large number of industrial related uses, particularly to the south and to the west of Kent Road. The subject site is located to the west of the Mascot town centre, to the north of Sydney Airport and to the south of Gardeners Road.

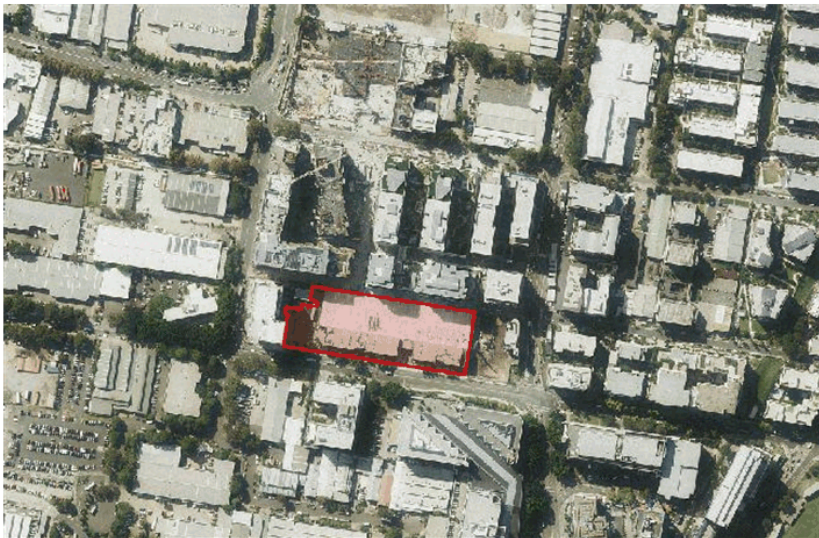


Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

Description of approved developments and proposed modifications

Approved Development DA-2014/146

On 12 June 2015, DA-2014/146 was approved by the now former Sydney East Joint Regional Planning Panel for the following:

- Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440m² of retail and 499 residential units;
- Three basement levels and one ground level of parking below Building A, linking with the basement for the adjoining building at 39 Kent Road;
- One basement level and three above ground parking levels for Building B;
- A total of 792 car parking spaces plus a public pay car park for approximately 93 car parking spaces;
- A Voluntary Planning Agreement for works which include the dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street, and the provision of a public pay car park accommodating approximately 93 car parking spaces.

Approved Modification DA-2014/146/02

On 1 November 2016, Council approved under delegated authority a modification under the former Section 96(1A) provisions (now Section 4.55(1A)) to amend condition 43 regarding the timing of the Section 94 contribution. This was approved under delegated authority on 1 November 2016.

Approved Modification DA-2014/146/03

On 5 October 2017, Council approved under delegated authority a modification under the former Section 96(1A) provisions (now Section 4.55(1A)) to modify the unit layouts within Building B. This was approved under delegated authority on 5 October 2017.

Approved Development Application DA-2017/1185

On 11 September 2018, the Bayside Planning Panel approved by resolution for the construction of 17 new units and the reconfiguration of five approved units within Building B.

Approved Development Application DA-2017/1220

On 29 March 2018, Council approved under delegated authority a two lot Stratum Subdivision, splitting the subject site in two. This subdivision was registered on 22 May 2018.

Lot 100 (known as 256 Coward Street) contains the area of the approved Building A and through site link, whilst Lot 101 contained Building B.

On 9 October 2018, a DA was lodged for a new mixed use development for 256 Coward Street.

Construction has commenced for the approved Building B development contained at 280 Coward Street.

Proposed Modification BDA-2014/146/A

On 3 January 2019, the subject modification was lodged to amend Conditions 42 and 44.

As a result of the approved and now registered Stratum subdivision, the subject frontage has now been reduced to 57 metres, and hence the calculations towards the fees as prescribed under Conditions 42 and 44 have now changed.

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(1A) – Modifications involving minimal environmental impact

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

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

The proposed modification is considered to be of minor environmental impact as it 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*

As discussed above, the proposed modification is considered to be substantially the same development as it does not involve any physical changes to the approved development.

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

- i. *the regulations, if the regulations so require, or*
- ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

It was considered that notification was not required to be carried out in accordance with Part 2 of the Botany Bay Development Control Plan (DCP) 2013.

(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 have been 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)

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

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

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

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

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

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

It is considered that the likely impacts as assessed as part of the Development Applications (as modified) do not change as a result of this application.

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

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

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. No submissions were received.

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

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

Section 94 Contributions

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

Conclusion

BDA-2014/146/A for the amendment of Conditions 42 and 44 at 280 Coward Street, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to modified conditions of consent.

Attachment**Schedule 1 – Conditions of Consent**

Premises: 280 Coward Street, Mascot

BDA-2014/146/A

SCHEDULE OF CONSENT CONDITIONS**GENERAL CONDITIONS**

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

Drawing No.	Author	Dated
A03, Issue G	Krikis Tayler Architects	16/01/15
A04, Issue H	Krikis Tayler Architects	16/01/15
A05, Issue H	Krikis Tayler Architects	16/01/15
A06, Issue K	Krikis Tayler Architects	16/01/15
A07, Issue L	Krikis Tayler Architects	03/02/15
A08, Issue J	Krikis Tayler Architects	16/01/15
A09, Issue J	Krikis Tayler Architects	16/01/15
A10, Issue J	Krikis Tayler Architects	16/01/15
A10-01, Issue B	Krikis Tayler Architects	16/01/15
A10-02, Issue B	Krikis Tayler Architects	16/01/15
A11, Issue J	Krikis Tayler Architects	16/01/15
A12, Issue J	Krikis Tayler Architects	16/01/15
A13, Issue L	Krikis Tayler Architects	05/05/15
A14, Issue L	Krikis Tayler Architects	22/01/15
A15, Issue J	Krikis Tayler Architects	22/01/15
A20, Issue E	Krikis Tayler Architects	12/05/15
A21, Issue E	Krikis Tayler Architects	12/05/15
A22, Issue E	Krikis Tayler Architects	12/05/15

Drawing No.	Author	Dated
A23, Issue G	Krikis Tayler Architects	22/01/15
A24, Issue F	Krikis Tayler Architects	22/01/15
A25, Issue F	Krikis Tayler Architects	22/01/15
A26, Issue F	Krikis Tayler Architects	22/01/15
A27, Issue F	Krikis Tayler Architects	22/01/15
A50, Issue E	Krikis Tayler Architects	13/05/15

Section 96(2) Drawings as they relate only to Building B (Added DA14/146/03)

Drawing No.	Author	Date received
<i>A05, Issue L</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A06, Issue N</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A07, Issue R</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A08, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A09, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-01, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-02, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-03, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-04, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A11, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A12, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A12-01, Issue N</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A13, Issue R</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A14, Issue Q</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A15, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A20, Issue I</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A21, Issue I</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>

Drawing No.	Author	Date received
A22, Issue 1	Krikis Tayler Architects	2 March 2017

Reference Document(s)	Author	Dated
Clause 4.6 Exceptions to Development Standards Report	LJB Urban Planning Pty Limited	25 June 2014, amended 14 and 22 May 2015
Design Verification Statement – SEPP 65	Krikis Tayler Architects	26 June 2014
Survey Plan	H Ramsay Surveyors	16 November 2012
Landscape plan 55.15(14)/068	Iscape Landscaping	February 2015
Acoustic Report, 44.5039.R4MSC	The Acoustic Group	26 June 2014
Stormwater plans 140163	Australian Consulting Engineers Pty Ltd	27 May 2014
Access Report	Accessibility Solutions	7 July 2014
Detailed Cost Report	Washington Brown	17 June 2014
BCA Report	Barry Johnson & Associates	2 July 2014
Traffic Impact Assessment Report ref 13-017-5	Thompson Stanbury Associates	February 2015
Geotechnical Investigation, Report No. E22226 GB	Environmental Investigations Pty Ltd	18 June 2014
Environment Site Assessment Report Ref E22226 AA – Rev 01	Environmental Investigations Pty Ltd	12 June 2014
Waste Management Plan	Elephants Foot Recycling Solutions	June 2014
Pedestrian Wind Environment Statement WB956-02F01 (Rev 1)	Windtech	3 October 2014
Section 96(1A) Application Planning Report (DA14/146/02)	LJB Urban Planning	1 July 2016
Section 96(2) Statement	LJB Urban Planning	24 February 2016
Amended Traffic & Parking Impact Statement	Thompson Stanbury Associated	February 2017
Unit Schedule	Krikis Tayler Architects	18 February 2017
Design Verification Statement	Nick Tayler	22 February 2017

Design Changes

2

- a) The materials and finishes of the façade of Building B is to be finished in different materials to the façade of Building A. Specifically, Building B must contain a

reduction in rendered walls and commercial style glazing. Building B should include a selection of high grade materials to be finished in a series of colour treatments that will generate visual interest and relief. A revised façade elevation and materials and finishes schedule for Building B is to be submitted to Council for the approval by the Director, Planning and Environment, prior to the issue of any Construction Certificate for Stage 2. (DA14/146/02)

- b) The public car park must have a direct pedestrian access to Coward Street, ~~or close to the lobby in Building B~~ or via the public plaza link to the west. In addition, provision is to be made for a doorway to John Street, so as to provide a possible future pedestrian access in a direct manner to Mascot Station, should Council obtain an easement over land owned by the Meriton Group. (DA14/146/02)
- c) The access to the car park in terms of people with a disability, including all pedestrian access must be verified by a report prepared by an Access Consultant.

Amended plans for the car park level compliant with item b. and c. are to be submitted to Council for approval prior to issue of first Construction Certificate besides shoring and excavation for Stage 2. (DA14/146/02)

Planning Agreement

3

- a) In accordance with the letter dated 6 August 2014, the landowner is to enter into a Planning Agreement under Section 93F of the Environmental Planning and Assessment Act 1979 with Botany Bay City Council to undertake the following:
- Provision of a public car park, providing approximately 90 car parking spaces, to be publicly accessible for vehicles via a public road. The car park is to be dedicated to Bayside Council in a future stratum subdivision.
 - Dedication and embellishment of a public through site-link of approximately 1600sqm in land.

4

The preparation of the Planning Agreement and the works subject to the Planning Agreement are to be at no cost to Council. The Planning Agreement is to be entered into prior to the issue of any Construction Certificate for Stage 2, or as otherwise agreed by Council's General Manager. The works the subject of the Planning Agreement are to be carried out and completed prior to the issue of the relevant Occupation Certificate. (DA14/146/02)

Public Domain Works

5

A Public Domain Plan, in accordance with Council's Public Domain Manual is to be submitted for Coward Street and the through site link. Full public domain details – plans and specifications are to be submitted to Council for approval, prior to the issue of the Construction Certificate for above ground works for either Stage 1 or Stage 2. The following is to be addressed in the Plan:

- a) Clearly indicate all landscape structures and finishes, furniture and walling details (incl. skateboard restrictors), paving details and the like. All proposed public parks are required to be fully documented as it will be dedicated to and maintained by Council. Greater detail of amenity lighting locations;

- b) Additional detailed cross sections are required in both directions through the space showing the relationship to the streetscape and adjacent development;
 - c) Bins located within the new streets and public parks are recommended to be the Council standard (spec supplied) to retain consistency with other public domain areas in the precinct;
 - d) Appropriate and suitable additional street lighting, if required by the RMS, to a high decorative standard is to be provided to the Coward Street frontage of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements. (DA14/146/02)
- 6 A revised BASIX Certificate is to be submitted to Council for approval. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled. **BASIX Certificate number: 539890M_07 applies to Building B. (Added DA14/146/03)**
- a) Note:
Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- Remediation**
- 7 The applicant is to prepare a Phase 2 Site Environmental Assessment Report. A Remedial Action Plan is to be prepared if necessary. If Category 2 remediation is required, the provisions of SEPP 55 are to be complied with including the notification of commencement of remediation work to be given to Council. All remediation must be completed and a Site Audit Statement issued prior to issue of the Construction Certificate for above ground works for Stage 1 and separately for Stage 2. (DA14/146/02)
- 8 This 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.

9

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
- c) The basement of the building must be designed and built so that on completion, the basement is a "fully tanked" structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement; and
- d) Air conditioning units must not be visible from any public place.

- 10 This Consent relates to land in Lot 1 of DP 805156 (256-280 Coward Street) and Lot 1 DP 1081391 (39 Kent Road) and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 11 The following condition is imposed by **Sydney Water** and is to be complied with:

Water

- The proposed development is located in the Mascot Station Urban Activation precinct
- The 150 mm drinking water main in Kent and 150mm in Coward Street fronting the proposed development does not comply with the Water Supply Code of Australia (Sydney Water Edition — WSA 03-2002) requirement for minimum sized mains for the scope of development
- Although the property has frontage to the existing 500mm main in O'Riordan Street, service connections off this trunk main will not be permitted
- The developer will be required to amplify the existing system providing a 200mm water main frontage to service the proposed development
- The proposed drinking water infrastructure for this development will be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012)

Wastewater

- The wastewater main available for connection is the 225 mm main constructed under WO 40307
- The proposed development site is traversed by a number of wastewater mains

- Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate the development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets. Refer to your WSC for details of requirements.

12 The following conditions are imposed by the **NSW Roads and Maritime Service (RMS)**.

- a) The design and construction of the proposed gutter crossing off Coward Street shall be in accordance with AS2890.1 — 2004 and the Roads and Maritime's requirements. Further details of these requirements could be obtained from the Roads and Maritime's Project Manager, Statewide Delivery Section, Parramatta Ph: 8849 2144.

A Certified copy of the design plans shall be submitted to the Roads and Maritime for consideration and approval prior the release of a construction certificate by Council and commencement of road works.

The Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of the works.

Any redundant driveways along the site's Canterbury Road [Coward Street] frontage are to be removed with kerb and gutter reinstated to the Roads and Maritime's requirements.

- b) Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

A plan checking fee may be payable and a performance bond may be required before the Roads and Maritime's approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- c) The proposed development should be designed such that road traffic noise from Coward Street is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.

- d) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to RMS for assessment in accordance with Technical Direction GTD 2012/001;

The developer is to submit all documentation at least six(6) weeks prior to the commencement of construction and is to meet the full cost of the assessment by RMS.

The report and any enquiries should be forwarded to :

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

Telephone 8848 2114
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven(7) days notice of the intention to excavate below the base of the footings. This notice is to include complete details of the work.

- e) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions, loading dock) should be in accordance with AS 2890.1-2004, AS 2890.2 – 2002 and AS 2890.6:2009;
- f) All vehicles must be wholly contained on site before being required to stop.
- g) All works/regulatory signposting associated with the proposed development are to be at no cost to the Roads and Maritime.

13 The following conditions are imposed by the **NSW Office of Water**:

General and Administrative Issues

- a) 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;
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below ground level that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation;
- c) Sufficient drainage will be provided beneath and around the outside of the watertight structure to ensure that groundwater is able to drain around the structure and does not cause an impediment to natural groundwater flow which would lead to an increase in hydraulic gradient across the footprint of the basement greater than

Prior to Excavation

- d) 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;

- e) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report;
- f) A copy of a valid development consent for the project shall be provided to the NSW Office of Water;
- g) Groundwater quality testing shall be conducted on a suitable number of samples using suitable suite of analysis and completed by a NATA certified laboratory with the results collated and certificates appended to a report supplied to the NSW office of Water. Samples must be taken prior to the substantial commencement of dewatering, 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.
- h) The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority;
- i) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During Excavation

- j) 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.
- k) Piping, piling 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.
- l) 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.
- m) 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.
- n) 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 sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

- o) 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.
- p) 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 procedures.

Following excavation

- q) Should pumping volumes or groundwater quality significantly differ from the predictions supporting the DA and licence applications, detailed monitoring records must be provided to the NSW Office of Water, together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

14 The following conditions are imposed by the **Sydney Airport Corporation Limited (SACL)** and must be complied with:

- a) The PROPERTY DEVELOPMENT at 256-280 COWARD STREET, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
- b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 51 metres above Australian Height Datum (AHD).
- c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- d) Should you wish to exceed the above heights, a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- e) 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. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
 - i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - ii) the swing circle of any temporary structure/equipment used during construction;
 - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.

- f) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- g) The development is to comply with the Civil Aviation Safety Authority (CASA) requirements as outlined in the Council's Development Application Guide for Multi-Unit Residential, Commercial and Industrial.

- 15 **Ausgrid** have advised that until the electrical load requirements of the development are provided, the accommodation of an electrical substation should be allowed for within the premises. Accordingly, the applicant is to liaise with Ausgrid to obtain confirmation on this issue, prior to a Construction Certificate.

Before the location of any substation is agreed with AusGrid, approval from Council to the location must be obtained.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF DEMOLITION AND DURING DEMOLITION AS NOTED

- 16 Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council.
- a) The report shall include records and photographs of the following area that will be impacted by the development: All properties immediately adjoining the site and Coward Street.
 - b) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. 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.
 - c) In addition, the following issues shall also be complied with:
 - i) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
 - ii) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners;
 - d) Should demolition, site clearing and site remediation 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.)

- 17 There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- 18 Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.
- 19 Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority. The statement must be in compliance with: AS2601-1991 Demolition of Structures," the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:
- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995";
 - m) Sewer – common sewerage system;

- n) On site monitoring both during asbestos removal and the remainder of demolition activities.
- 20 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 to determine the position and level of services;
 - b) Negotiate with the utility authorities (eg 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.
 - iii) 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.
- 21 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; and Australian Standard 2601 - 1993 "*Demolition of Structures*".
- 22 Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change and Water and with the provisions of:
- a) New South Wales Occupational Health and Safety Act, 2000;
 - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - d) Protection Of the Environment Operations Act 1997 (NSW); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
- 23 Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard *AS2601-2001, Demolition of Structures* by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:
- a. Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the *AS2601-1991 Demolition of structure*.
 - b. Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems.

- Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.
- c. All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard *AS1716 Respiratory Protective Devices* and shall adopt work practices in accordance with the requirements of WorkSafe's *Control of Inorganic Lead At Work* (NOHSC: 102(1994) and NOHSC: 2015(1994).
 - d. All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; *Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999)* and *The Protection of the Environment Operations Act 1997 (NSW)*.
24. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under *Roads Act 1993* and *Local Government Act 1993*. Any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied:
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit for roads and footways occupancy (long term/ short term),
 - d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - f) Permit to place skip/waste bin on footpath and/or nature strip,
 - g) Permit to install temporary shoring under Council's road reserve, and
 - h) Permit to use any part of Council's road reserve or other Council lands.
25. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
26. Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).

- 27 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.
- 28 Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 29 The approved Waste Management Plan for the site prepared by Elephants Foot Recycling Solutions, dated June 2014, shall be complied with at all times during demolition works and construction works.
- 30 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.
- 31 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 32 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.
- 33 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
- 34 A Demolition Management Program shall be submitted to, and approved in writing by the Council prior to commencement of demolition The program shall detail:
- a) The proposed method of access to and egress from the site for 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 demolition works on the site and the expected duration of each phase,
 - c) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of the demolition process,
 - d) The proposed method of loading and unloading machinery. Wherever possible mobile cranes should be located wholly within the site,
 - e) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during demolition
 - f) 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,
 - g) 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,
 - h) Proposed protection for Council and adjoining properties, and
 - i) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

- 35 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/and 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.

- 36 All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints

prior to commencement of the construction of the civil works associated with the road widening;

- b) Prior to placement of concrete (kerb and gutter and footpath);
- c) Prior to construction and placement of road pavement materials; and
- d) Final inspection.

Note: Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

- 37 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.
- 38 The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
- 39 If any material containing asbestos is found on site during the demolition process the material is to be removed and disposed of in accordance with WorkCover 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.
- 40 The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
 - a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
- 41 During demolition, remediation, excavation, and construction, 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 Traffic Management Plan and;
 - c) Approved Demolition Management Plan and Construction Management Plan.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE OR THE RELEVANT CONSTRUCTION CERTIFICATE AS NOTED

Note: Unless indicated otherwise all conditions must be satisfied prior to both Stage 1 in relation to works to be undertaken in that Stage, and also to Stage 2, in relation to works to be undertaken in that Stage. (DA14/146/02)

42 The applicant must prior to the issue of the Construction Certificate for Stage 1, pay the following fees and bonds: (DA14/146/02)

- | | | |
|----|--|------------------------------------|
| a) | Builders Security Deposit (Stage 1) | \$548,725.00 \$170,914.00 |
| b) | Builders Security Deposit (Stage 2) | \$377,811.00 (Condition 44) |
| c) | Development Control | \$12,300.00 |

(BDA-2014/146/A)

42A Prior to the issue of any Construction Certificate for above ground works in relation to Building A, written evidence must be submitted to the Council demonstrating that:

- (a) there are perpetual lawful access rights (whether by way of a public road, easement, or otherwise);
 - (b) from Kent Road;
 - (c) for all persons, including by foot and by vehicle;
 - (d) over the existing formed access way to the north of Building A and the building at 39 Kent Road;
 - (e) to the land upon which building A is proposed;
- unless Council's director of planning has provided written certification that Council is satisfied with such other alternate arrangements for access as may be proposed.

Development Contributions

43

- a) Prior to the issue of the Construction Certificate for Stage 1, the following Section 94 contributions are required to be paid:
Stage 1 – Building 2A
Botany Bay Section 94 Contributions Plan 2005 - 2010

\$1,827,952

Drainage Contribution 1/3 = \$36,012.6

Mascot Station Section 94 Contributions Plan Amendment No. 1 2004

\$1,194,919

Half Credit (for previous industrial use of the site)

Half of the Total Credit = \$440,917.50

Total Contribution = \$2,617,966.10 (DA14/146/02)

- b) Prior to the issue of the Construction Certificate for Stage 2, the following Section 94 Contributions are required to be paid:

Botany Bay Section 94 Contributions Plan 2016 (indexed to September 2017):

\$4,146,135.59

- 44 Prior to the issue of any Construction Certificate for Stage 1, the applicant shall lodge a Damage Deposit of ~~\$548,725.00~~ \$170,914.00 for Stage 1 and \$377,811.00 for Stage 2 (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. (DA14/146/02) (BDA-2014/146/A)
- 45 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of the first Construction Certificate for Stage 1. The program shall detail: (DA14/146/02)
- 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.
- 46 Prior to the issue of any Construction Certificate for Stage 1, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. (DA14/146/02)
- The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 47 Prior to the issue of the Construction Certificate for Stage 2, the planter boxes at the rear upper levels of the building shall be amended to have minimum dimensions of 1.2 metres in height and 1.0 metres in width. Details shall be submitted with the Construction Certificate. (DA14/146/02)
- 48 The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans for each Stage. (DA14/146/02)
- 49 Prior to the issue of a Construction Certificate, the construction drawings shall indicate the following:
- a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
 - b) That floor to ceiling in laundry and bathroom areas to be tiled;
 - c) That timbers used in the development are plantation, recycled or regrowth timbers of timbers grown on Australian farms or State forest plantations and that no old growth or rainforest timbers are to be used in any circumstances; and
 - d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.
- 50 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 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,
 - Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 51 Prior to the release of the Construction Certificate, the following required details are to be submitted to and approved by Council:
- Disabled car parking spaces shall be provided and clearly marked in accordance with Australian Standard AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - All off street disabled parking shall have access to the adjacent road(s) as per Australian Standard AS 2890.6 and Council requirements.
- 52 The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.
- 53 During demolition, excavation, remediation 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.
- 54
- a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material.
 - b) To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of Environment and Heritage (OEH) approved guidelines to ensure that it is suitable for the proposed development. 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.
- c) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008).
- 55 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.
- 56 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Coward Street, road reserve. 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.
- 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.
- 57 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 (eg 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.
 - All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of any new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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

- 58 A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to *'Do It Right On-Site' Soil and Water Management for the Construction Industry* (available from Council) and NSW EPA's *Managing Urban Stormwater: Construction Activities* and submitted to the Principal Certifying Authority prior to issue of the 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 Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.
- 59 Prior to the issue of the Construction Certificate the 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.
- 60 Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
- 61
- a) Prior to the issue of the Construction Certificate, the measures required in the Noise Impact Assessment Report No. 610.12456-R3 prepared by The Acoustic Group dated 26 June 2014 shall be undertaken in accordance with the provisions of *AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building;
- b) Prior to the issue of the Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved dwelling, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion;
- c) Prior to the issue of the Construction Certificate details are to be provided on acoustic treatment to the entry and exit roller door to driveway of the development to comply with the Office of Environment & Heritage's Industrial Noise Policy and Noise Control Guidelines.
- 62 Prior to the issue of the Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by Windtech Pty Ltd dated 3 October 2014 shall be detailed on the Construction Certificate plans.
- 63 Prior to the issue of the Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of

construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

- 64 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- a) The rooms for the storage of garbage and recyclable materials shall be:
 - i) fully enclosed;
 - ii) adequately ventilated;
 - iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
 - v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
 - b) Waste arising from the development (when complete) is to be removed from the Coward Street, the detail of which is to be submitted with the Construction Certificate.
 - c) All garbage must be collection within the site. The head clearance of the loading dock area to facilitate this must be a minimum of 4.6 metres.
- 65 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
- 66 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following: Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
- 67 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.
- The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and

Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate but not be limited to the following:

- Provisions made in the Stormwater Drawings, ref. no. 140163 by ACE, dated 27 May 2014,
- Provision of a minimum 10kL rainwater tank for each building collection system for internal reuse in accordance with Section 4 of Botany Bay’s SMTG,
- 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,
- On Coward St, connect proposed Building A’s outlet pipe to Council’s existing stormwater inlet pit and reconstruct existing stormwater inlet pit with 1.8metre Lintel with a hinged steel galvanised grate,
- On Coward St, the proposed new stormwater pipe shall be minimum 375diametre Class 4 Reinforced Concrete, and
- On Coward St, the proposed new stormwater inlet pit shall have a 1.8metre Lintel with a hinged steel galvanised grate.

68 Prior to the issue of the relevant Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to the Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.

69 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the relevant Construction Certificate plans.

70 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.

71 The development shall make provision for the following car parking allocations, for the development itself:

STAGE 1 – BUILDING A

Car Parking Rates	Required
1 space per studio and 1 bedroom unit	113 spaces
2 spaces per 2 bedroom unit	148 spaces
2 spaces per 3 bedroom unit	6 spaces
1 visitor space per 7 dwellings	27 spaces
Commercial spaces	9 spaces

TOTAL REQUIRED	303
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STAGE 2 – BUILDING B

<i>Car Parking Rates</i>	<i>Required</i>
<i>1 space per studio and 1 bedroom unit</i>	<i>162 spaces</i>
<i>2 spaces per 2 bedroom unit</i>	<i>232 spaces</i>
<i>2 spaces per 3 bedroom unit</i>	<i>4</i>
<i>1 visitor space per 10 dwellings of which 3 will be dual use as car wash bays</i>	<i>28 spaces</i>
<i>Commercial spaces</i>	<i>9 spaces</i>
TOTAL REQUIRED	435

<i>Car Parking Rates</i>	<i>Required</i>
<i>0.6 spaces/1 bedroom unit</i>	<i>88.8 spaces</i>
<i>0.9 spaces/2 bedroom unit</i>	<i>135 spaces</i>
<i>1.4 spaces/3 bedroom unit</i>	<i>16.8</i>
<i>1 visitor space per 7 dwellings of which 3 will be dual use as car wash bays</i>	<i>45 spaces</i>
<i>Commercial spaces</i>	<i>9 spaces</i>
TOTAL REQUIRED	295

(Added DA14/146/03)

This requirement shall be reflected on the Construction Certificate plans and any future strata subdivision. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times. *Those apartments in Building B not allocated a space are to be restricted to Studio apartments on any future strata plan. (Added DA14/146/03)*

- 72 Prior to the issue of the relevant Construction Certificate, the following documentation shall be submitted to Principal Certifying Authority:
- a) Longitudinal sections along centreline of all the ramps between each basement parking levels;
 - b) Design certification, prepared by a suitably qualified engineer, showing the longitudinal sections shall be designed in accordance with AS2890.1 (including gradients and gradient transitions).
 - c) Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans includes the required sight lines for safety and has been

designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.

- d) Details including swept paths demonstrating that a MRV vehicle and a garbage truck can access the Coward Street vehicular entry/exit to the building are to be submitted.
- e) The vehicular driveways to be the building are to be a minimum of 6m.

Note: Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.

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

- a) All residential unit sizes excluding balconies as minimum must be as following: *(Except as otherwise approved under DA14/146/03)*
 - i) Studio = 60m²
 - ii) 1 bedroom = 75m²
 - iii) 2 bedroom = 100m²
 - iv) 3 bedroom = 130m²
- b) Adaptable units must be provided in accordance with Section 4C.6.1 of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Section 4C.6.1). Details to be submitted with the Construction Certificate.

74 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development with details shown on plans submitted with the construction certificate.

74A Prior to the issue of the Construction Certificate for Stage 2, the external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- a) *Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and*
- b) *Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built. (Added DA14/146/03)*

DURING WORKS

- 75 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.
- 76 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 77 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 78 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.
- 79
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 80 If the work involved in the construction of a building:
- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:

- i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

- 81 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves the 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;
 - a) 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.
 - ii) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.

- 82
 - a) Any new information that comes to light during demolition, excavation, remediation and or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council;
 - b) 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.

- 83 The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.

- 84 Throughout the demolition and 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.

- 85 During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 86
- a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition associated with the above project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council.
 - b) As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
 - iii) Must at least 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 his 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.
- 87 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 88 The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
- 89 The Development is to be constructed to meet the following construction noise requirements:

- a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - 1. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm;
 - ii) Saturday 08:00am to 4:00pm;
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.
- 90 The following shall be complied with:
- a) 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 Environmental Noise Control Manual;
 - b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
 - c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
 - d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).

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

Note: Unless otherwise stated, conditions are to be satisfied prior to the issue of the Occupation Certificate for Stage 1 and prior to the separate issue of the Occupation Certificate for Stage 2, as related to the completion and use of the relevant building. (DA14/146/02)

91

- a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed in the Acoustic Report prepared by The Acoustic Group dated 26 June 2014; and
- b) All acoustic work including that acoustic work required at Condition No. 60 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.

91A Prior to the issue of any Occupation Certificate in relation to Building A, written evidence must be submitted to the Council demonstrating that:

- (a) there are perpetual lawful access rights (whether by way of a public road, easement, or otherwise);
- (b) from Kent Road
- (c) for all persons, including by foot and by vehicle;
- (d) over the formed access way to the north of Building A and the building at 39 Kent Road
- (e) to the land upon which building A is proposed;
unless Council's director of planning has provided written certification that Council is satisfied with such other alternate arrangements for access as may be proposed.

- 92 Prior to the issue of the Occupation Certificate for Stage 2, the following is to be complied with: (DA14/146/02)

Prior to the issue of any Occupation Certificate, the applicant shall carry out the public domain works on Coward Street and the through site link in accordance with the approved Public Domain Plan. All improvements shall be in accordance with Council Landscaping and Engineering specifications and requirements, including:

- a) The public footpath in Coward Street shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation. Construction hold points and Council inspections are required at the following minimum points:
- (i) at the commencement of paving works, and
 - (ii) at final completion.

Note: Pavers shall be ordered accounting for adequate lead time for manufacture (10-12 weeks). No paver substitutes will be permitted.

- b) New street trees at min. 400 litre pot size specified shall be installed in the Coward Street verge. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes;
- c) On Coward St, adjacent to development, a new stormwater pipe is to be constructed underneath the new kerb & gutter location in accordance Stormwater Drawings, ref. no. 140163 by ACE, dated 27 May 2014 and as per Council's Infrastructure specifications; and
- d) The appropriate additional and street lighting to a high decorative standard, if required by the RMS, is to be installed to the street frontage of the site, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements;
- e) The Council nature strips shall be suitably replaced in accordance with Council Specification and the approved landscape documentation at the completion of construction work and at the Applicant's expense.

- 93 Plans submitted with the Occupation Certificate shall demonstrate compliance with the following:

- a) All residential unit size excluding balconies as minimum must be as following:
- i) Studio = 60m²
 - ii) 1 bedroom = 75m²
 - iii) 2 bedroom = 100m²
- b) The 738 car parking spaces shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate;

STAGE 1 – BUILDING A

Car Parking Rates	Required
1 space per studio and 1 bedroom unit	113 spaces
2 spaces per 2 bedroom unit	148 spaces
2 spaces per 3 bedroom unit	6 spaces
1 visitor space per 7 dwellings of which 4 will be dual use as car wash bays	27 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	303

STAGE 2 – BUILDING B

Car Parking Rates	Required
1 space per studio and 1 bedroom unit	162 spaces
2 spaces per 2 bedroom unit	232 spaces
2 spaces per 3 bedroom unit	4
1 visitor space per 7 dwellings of which 4 will be dual use as car wash bays	28 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	435

Car Parking Rates	Required
0.6 spaces/1 bedroom unit	88.8 spaces
0.9 spaces/2 bedroom unit	135 spaces
1.4 spaces/3 bedroom unit	16.8
1 visitor space per 7 dwellings of which 3 will be dual use as car wash bays	45 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	295

Those apartments in Building B not allocated a space are to be restricted to Studio apartments on any future strata plan. (Added DA14/146/03)

(Added DA14/146/03)

- c) Allocation of the car parking shall be as follows:
- i) Each studio/one (1) bedroom unit shall be allocated 1 car parking space;
 - ii) Each two (2) bedroom unit shall be allocated 2 car spaces;
 - iii) Fifty five (55) visitor car parking spaces (of which 4 are to be dual uses as car wash bays) shall be provided. Such spaces must be located nearby the entrance to the development; and
 - iv) Eighteen (18) spaces for retail uses. (DA14/146/02)
- 94 All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 95 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.
- 96 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Coward Street, road reserve.
- 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. 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.
- 97 Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 98 Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

- 99 Prior to the issue of the relevant Occupation Certificate for Stage 2, the following is to be complied with: (DA14/146/02)
- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans, project no. 1314 by Krikis Tayler, dated 22 January 2015 the following:
 - i) Embellish and dedicate the portion of land to Council for the purpose of a through site link connecting Coward Street to the new John Street to provide public pedestrian access. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
 - ii) Dedicate and provide a public car park to Council accommodating approximately 90 cars.
- 100 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the issue of the Construction Certificate.
- 101 Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area has been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.
- 102 The following shall be complied with prior to the issue of the Occupation Certificate:
- a) A new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/ reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.
 - b) The crossing shall be able to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
 - c) The redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
 - d) Written confirmation / completion certificate obtained from Council.
 - e) Inspection report (formwork and/or final) for the works on road reserve obtained from Council's engineer.

- f) 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.
 - g) Driveways and vehicular access paths shall be designed and constructed to comply with the minimum requirements (including changes of grade) of AS/NZS 2890.1.
- 103 Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
- 104 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 105
- a) In order to ensure that the required on-site detention, infiltration and rainwater reuse systems will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention, infiltration and rainwater reuse systems. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the on-site detention, infiltration and rainwater reuse systems, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.
 - b) In order to ensure that the required pump-out system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built pump-out system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.
- 106 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.

- 107 Any damage not shown in the dilapidation report required under Condition No. 15 submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.
- 108 Landscaping shall be installed in accordance with the Council approved landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and to Council's satisfaction at all times.
- a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements;
 - b) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required, and
 - c) 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.
- 109 Prior to the issue of the Occupation Certificate; the footpath at the commercial tenancy frontages must for reasons of public safety and presence be illuminated between sunset one day and sunrise the day following - 7 days a week and in accordance with the following standard:
- a) Lighting is to comply with the requirement for pedestrian areas in the current AS/NZS 1158;
 - b) Lighting must be recessed into the facade;
 - c) All associated wiring and conduits are to be completely concealed; and
 - d) Light fittings should be readily accessible to support their regular maintenance.
- 110 Prior to the issue of the Occupation Certificate:
- a) Certification shall be provided to the PCA that Lighting (lux) levels for this development must include the installation of low glare/high uniformity lighting levels in line with Australian Standard AS:1158. 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). 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. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the premises;
 - b) 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,

- c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects.
- 111 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 112 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.
- 113 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- 114 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's DCP Part 3L. 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 joint 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.

- 115 Vehicles making deliveries (including goods, merchandise and the like) and accessing the site shall comply with the following requirements:
- a) The maximum size of vehicles making deliveries and accessing to the site shall be limited to Medium Rigid Vehicle MRV only as per AS/NZS 2890.2-2002 only.
 - b) All loading and unloading of vehicles shall be carried out wholly within the site. No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public car park, service station etc).
 - c) Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
- 116 The ongoing maintenance of the nature strip shall then be undertaken by the occupier/owner/strata body. Maintenance shall include mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping, or any work to street trees located on the road verge/nature strip at any time the removal of weeds and rubbish and maintaining a good, even coverage of grass at any time.
- 117 The landscape contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 118 No roller shutters are to be installed to any of the shopfronts that front Coward Street.
- 119 The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 9:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
- 120 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

- c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
 - e) Noise controls specific to the amenity of the residential neighbourhood
 - i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 9:00pm one day and 7:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
 - ii) Notwithstanding compliance with the above (Condition No. 108(e)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 9:00pm one day and 7:00am the day following Monday to Sunday.
- 121 Any air conditioning units shall comply with the following requirements:
- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.
 - c) The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
 - d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed in Condition 108 above.
- 122
- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
 - b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Note 5. shall be monitored by CCTV cameras at all times.

- 123 New public domain planting shall be maintained by the Applicant/Owner/Strata Corporation for 12 months after planting (ie. final hold-point inspection). Maintenance includes watering twice weekly to enable good establishment and sustain adequate growth. There shall be two (2) fertilizer applications using a suitable product for natives applied at manufacturer's recommendations, ongoing weed removal, mulch replenishment (minimum of 2) maintaining a 1 metre wide mulch ring at all times and removal of grass/weeds within the mulch ring. Maintenance does not include trimming or pruning the trees under any circumstances. Formative pruning will be undertaken by Council.
- 124 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order at all times.
- 125 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. 14/146 dated as 15 May 2015 and as modified under Section 80A(1)(b) on 10 October 2016 and as amended by Section 96(1A) application received by Council on 1 July 2016 (DA14/146/02) and as amended by Section 96(2) application (DA14/146/03) received by Council on 2 March 2017 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

ADVISORY NOTES

The following conditions are imposed by the **NSW Police Service**:

1. As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
2. The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
3. Any proposed landscaping and vegetation should adhere to the following principles:
 - a) Shrubs bushes, plants should remain under 900mm in height;
 - b) Branches or large trees should start at a height of two (2) metres and higher;
 - i) This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.

4. 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.
5. Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.



SECTION 4.55(1a)
APPLICATION
PLANNING REPORT

256 – 280 COWARD
STREET,
MASCOT
13/227

21 December 2018



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1.0 INTRODUCTION

- 1.1 This Planning Report accompanies a Section 4.55(1a) application to amend Condition 42 and 44 of DA146/2014 in relation to the quantum of the damage deposit.
- 1.2 Development Application 146/2014 was approved by Joint Regional Planning Panel on 12 June 2015.
- 1.3 The approval comprised the erection of two mixed use buildings comprising 470 residential apartments and retail space with 3 basement levels and 1 basement level linking with 39 Kent Road. The approval also included the provision of a public carpark and dedication and embellishment of a through site link. However it is noted that the description on the DA consent was incorrect.
- 1.4 This Section 4.55(1a) application seeks to modify Conditions 42 and 44 in relating to the quantum of the Builders Security deposit.
- 1.5 This report provides information on the subject site, the proposed development and undertakes an assessment against the relevant heads of consideration set out in the Environmental Planning and Assessment Act 1979.
- 1.6 The amended development is considered to be substantially the same development and this will be further addressed in Section 4 of this report.



2.0 SITE DESCRIPTION

- 2.1 The site is located at 256-280 Coward Street, Mascot. The development occupies all of Lot 1, DP 805156. It also partially sits on Lot 1 DP 1081391 which is occupied by the constructed development at 39 Kent Road.
- 2.2 The site is located on the northern side of Coward Street to the east of the Kent Road and Coward Street intersection. The site is an irregular shaped allotment with an area of 10,525m², with a frontage to Coward Street of 182.825m. As noted above, the site also occupies a portion of 39 Kent Road which has an area of 3,712m².
- 2.3 Part of the site has been sold and is no longer part of this development and therefore the frontage of the site has been reduced. The works being constructed relate solely to 280 Coward Street. A new DA has been lodged for 256 Coward.

3.0 PROPOSED AMENDMENTS & JUSTIFICATION

- 3.1 This Section 4.55 application seeks to amend Conditions 42 and 44 which currently states:

Condition 42

The applicant must prior to the issue of the Construction Certificate, pay the following fees and bonds:

- | | |
|------------------------------|-----------------------------|
| a) Builders security Deposit | \$548,725.00 (condition 44) |
| b) Development control | \$12,300.00 |

Condition 44

Prior to the issue of any Construction Certificate the applicant shall lodge a damage deposit of \$548,725.00 (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.

- 3.2 Part of the site has been sold and the DA that will be constructed will only relate to 280 Coward Street. The new frontage is only 57 metres compared with the original length of 183 metres.
- 3.3 A new DA has been submitted to Council for 256 Coward Street and it is understood that this is under assessment by Council. Therefore the buildings to be constructed under DA 146/2014 will only relate to 280 Coward Street which has a frontage of 57 metres. Council will impose a damage deposit on the new DA for the remainder of the site frontage.
- 3.4 Based on the ratio of amount payable per square metre frontage, the damage deposit for 57 metres should equate to \$170,914.
- 3.5 It is therefore requested that Conditions 42 & 44 be amended as follows:

Condition 42





The applicant must prior to the issue of the Construction Certificate, pay the following fees and bonds:

c) Builders security Deposit	\$548,725.00	\$548,725.00 \$170,914 (condition 44)
d) Development control	\$12,300.00	

Condition 44

Prior to the issue of any Construction Certificate the applicant shall lodge a damage deposit of \$548,725.00 ~~\$548,725.00~~ \$170,914 (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.

- 3.6 There are no other conditions that require modification as a result of this application.



4.0 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 ASSESSMENT

4.1 Consideration of Section 4.55 Applications

4.1.1 This Section 4.55 application is not subject to the complying, prohibited, designated, or advertised development provisions of the Act. There are no issues relating to endangered flora or fauna, watercourses or bush fire.

4.1.2 The application is submitted pursuant to the provisions of Section 4.55(1a) of the Act which states:

Modifications involving minimal environmental impact

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

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

(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 any period prescribed by the regulations or provided by the development control plan, as the case may be.

4.1.3 An assessment of the requirements of Section 4.55(1a) is contained in the following section.

4.1.4 The Environmental Planning and Assessment Act 1979, requires the assessment of development proposals against the relevant 'heads of consideration' set out in Section 4.15 and the requirements of 4.55(8) of the EPA Act. These are addressed below.

4.2 Requirements of Section 4.55(1a)

4.2.1 The proposed amendments are considered to satisfy the test for a section 4.55(1a) application for the following reasons:

Substantially the same development

4.2.2 Whether a development is substantially the same development is a question of fact. This involves a qualitative and quantitative analysis. The analysis involves a comparison between



the development as modified and the development originally approved. In the case of *Scrap Realty v Botany Bay City Council* [2008] the Chief Judge described the exercise as being:

“The power of a consent authority to modify a consent is a power to alter without radical transformation of a consent”

- 4.2.3 This application seeks to modify the value of a damage deposit to reflect the actual works which will reflect the orderly and economic development of the site. It does not transform the consent.
- 4.2.4 The impacts of the development are not substantially different. The application as amended is considered ‘substantially the same development’ and therefore meets the test under S4.55(1a) of the Environmental Planning & Assessment Act 1979.

Notification of the amendments

- 4.2.5 Given the nature of the modification it will not require notification in accordance with Council’s notification policy.

Any submissions made

- 4.2.6 Due to the minor nature of the amendment, the modification would not require notification in accordance with Council’s notification policy.

4.3 Planning Controls and Regulations

- Botany Bay Local Environmental Plan 2013
- Botany Bay Development Control Plan 2013

- 4.3.1 Compliance with the provisions of the above mentioned planning controls are discussed below.

Botany Bay Local Environmental Plan 2013

- 4.3.2 The subject site is zoned B2 Local Centre under Botany Bay LEP 2013. The development as approved is permissible with development consent. The modifications do not change the compliance of the development with the objectives of the zone.
- 4.3.3 There are no other provisions in the plan relevant to the subject application. Compliance with the requirements of the LEP remains as per the original approval.

Botany Bay Development Control Plan 2013

- 4.3.4 The DCP supplements the provisions of the LEP, but provides more detailed controls. Part 3A of the DCP provides the requirements for car parking design, bicycle design and loading and unloading facilities.



- 4.3.5 There are no other provisions in the DCP relevant to the subject application. Compliance with the requirements of the DCP remains as per the original approval.

4.4 The Likely Impacts

- 4.4.1 It is considered that the amendments sought under this application will have no unreasonable adverse impact. The amendment relates solely to the value of the damage deposit to reflect the actual works.

4.5 The Suitability of the Site for the Development

- 4.5.1 As with the original development application, the site is suitable for the proposed development.

4.6 Submissions

- 4.6.1 Given the nature of the amendment, it would not require notification.

4.7 The Public Interest

- 4.7.1 It is in the public interest to ensure orderly and economic development of land. This modification will have no adverse impact.
- 4.7.2 The amendments sought to the approved development are not contrary to the public interest.

5.0 CONCLUSION

- 5.1 The proposed amendments are considered appropriate and satisfy the test under Section 4.55(1a) of the Environmental Planning & Assessment Act 1979.
- 5.2 The relevant planning controls have been considered in the forgoing assessment.
- 5.3 Accordingly, it is recommended that Conditions 42 & 44 of DA 146/2014 be amended under Section 4.55(1a) of the Environmental Planning and Assessment Act 1979.





Larissa Brennan
DIRECTOR
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Bayside Local Planning Panel

12/02/2019

Item No	6.2
Application Type	Development Application
Application No	DA-2018/218
Lodgement Date	23/08/2018
Property	DA-2018/218 - 376-378 Rocky Point Road, Sans Souci
Ward	Rockdale
Owner	Mr A Daniel
Applicant	CMT Architects Australia
Proposal	Demolition of structures on site, removal of trees on site and construction of a four (4) storey residential flat building comprising of 15 apartments and one (1) level of basement carparking
No. of Submissions	Nil
Cost of Development	\$6,734,741
Report by	Michael McCabe, Director of City Futures

Officer Recommendation

- 1 That the panel considers 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 R4 High-Density Residential zone and it is therefore in the public interest to vary the control.
 - 2 That the Development Application No.DA-2018/218 for the proposed demolition of structures on site, removal of trees on site and construction of a four (4) storey residential flat building comprising of 15 apartments and one (1) level of basement car parking at 376-378 Rocky Point Road, Sans Souci 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 Planning Assessment Report - 376 - 378 Rocky Point Road [↓](#)
- 2 Survey plan [↓](#)
- 3 Site Analysis [↓](#)
- 4 Site plan [↓](#)
- 5 Basement level [↓](#)
- 6 North elevation [↓](#)
- 7 East and west elevation [↓](#)
- 8 South elevation [↓](#)
- 9 Street elevation [↓](#)
- 10 Roof plan [↓](#)
- 11 Landscape plan [↓](#)
- 12 Section AA [↓](#)
- 13 Overshadowing plans [↓](#)
- 14 Photo montage [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/218
Date of Receipt:	23 August 2018
Property:	376 Rocky Point Road, SANS SOUCI (Lot 3 DP 976581) 378 Rocky Point Road, SANS SOUCI (Lot 4 DP 976581)
Owner(s):	Mr Anthony Daniel Mr George Daniel Mrs Patricia Toulas Daniel Mrs Theodora Daniel
Applicant:	CMT Architects Australia Pty Ltd
Proposal:	376-378 Rocky Point Road, SANS SOUCI NSW 2219 - Demolition of structures on site, removal of trees on site and construction of a four (4) storey residential flat building comprising of 15 apartments and one (1) level of basement carparking
Recommendation:	Approved
No. of submissions:	Nil
Author:	Adam Iskander
Date of Report:	29 January 2019

Key Issues

Nil

Recommendation

1. That the panel considers 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 R4 High-Density Residential zone and it is therefore in the public interest to vary the control.
2. That the Development Application No.DA-2018/218 for the proposed demolition of structures on site, removal of trees on site and construction of a four (4) storey residential flat building comprising of 15 apartments and one (1) level of basement car parking at 376-378 Rocky Point Road, Sans Souci 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 a Pre Development Application (PDA-2018/14) was lodged and completed on 9 May 2018. The PDA was for the consolidation of 376 and 378 Rocky Point Road, demolition of all structures and construction of a four storey residential flat building with single basement car parking. Some concerns were raised relating to siting and consolidation of the building bulk and the requirement for increased setbacks to the adjoining neighbouring buildings.

The application was also referred to the Design Review Panel who generally supported the buildings aesthetics but raised minor concerns relating to landscaping and the requirement for increased communal amenities.

Apart from that mentioned above, there is no further background history associated with the subject site.

Proposal

Council is in receipt of a development application DA-2018/218 at 376-378 Rocky Point Road SANS SOUCL, which seeks consent to carry out the demolition of structures on site, removal of trees on site and construction of a four (4) storey residential flat building comprising of 15 apartments and one (1) level of basement car parking. The development will be divided into two buildings with vehicular and pedestrian entry into the property accessed via Selmon Street. Specifically, the proposal consists of:

Amalgamation

- The application proposes to amalgamate Lot 4 DP 976581 and Lot 3 DP 976581 or 376 and 378 Rocky Point Road
- The total site area is 1,143sqm

Basement:

- Single level basement with 21 residential parking spaces including two accessible parking spaces, two visitor spaces (one of the space will also be used for carwash) and a motorcycle parking space.

Ground, first, second and third floor:

- 15 residential units comprising of:
 - Three x 1 bedroom units;
 - Six x 2 bedroom units; and
 - Six x 3 bedroom units.
- The height of the building is 14.82 (maximum permissible is 14.5m)
- Total gross floor area proposed is 1,143sqm and FSR of 1:1 (maximum permissible is 1:1)

Landscaping

- All existing trees on site and on Council's footpath will be removed;
- Landscaping is provided along the ground floor perimeter of the site;
- The communal area is provided along the northern, eastern and western side of the site;
- Thirteen additional trees are proposed along the perimeter of the site. These trees will be either

one of the following species:

- Smooth-barked apple;
 - Heath banksia;
 - Tuckeroo.
- Seven street trees are proposed along Council's footpath (Council to advise of specific trees)

Site location and context

The subject site consists of two lots known as Lot 4 DP 976581 and Lot 3 DP 976581 or 376 and 378 Rocky Point Road. The site is located on the corner of Rocky Point Road and Selmon Street, Sans Souci. The site has a combined area of 1,143sqm with a frontage to Rocky Point Road measuring 26.825m, a secondary frontage to Selmon Street measuring 48.590m, rear boundary measuring 25.525m and a northern side boundary measuring 40.630m.

Existing on site are two single storey residential dwellings, with one dwelling sitting on each lot. The dwellings are constructed with fibro and rendered brick with a terracotta pitch roof over 376 Rocky Point Road and a colour bond pitch roof over 378 Rocky Point Road. To the rear of each lot are large backyards containing several small, medium and large trees and several trees along Council's footpath fronting both Rocky Point Road and Selmon Street.

To the north of the site is 374 Rocky Point Road which sits on a battle-axe lot. The site contains a residential flat building (RFB) with a staggered height which increases to a maximum of four stories to the rear. The site has a frontage of 13.6m to Rocky Point Road with the front portion of this site containing planter beds and a second frontage to Park Road measuring 12.3m. The building is constructed with brown bricks and rendered white borders around the balconies and roof facade. The fourth floor is set back from the building edge with a flat roof over and with planter beds along the perimeter. As the site has a small frontage to Rocky Point Road, the bulk of the building is maintained at the rear with the entry into the building located on Park Road. Inbetween these two frontages is a large vacant lot known as 1B Park Road which has a recent approval for the construction of a four storey residential flat building comprising of twelve units and basement parking with a 40.44m frontage to Rocky Point Road. The building was approved with a concrete finish to the front facade and balconies facing Rocky Point. The building was approved with a height of 17.02m which exceeds the standard by 2.52m and an FSR of 1.08:1 which will exceed the standard by 73.43sqm. The following image is the approved front elevation of the adjoining residential flat building at 1B Park Road:



Picture: Front elevation of approved neighbouring development facing Rocky Point Road at 1B Park Road.

To the rear of the subject site is a four storey residential flat building constructed in light coloured brickwork with a terracotta pitch roof. To the west of the subject site (across Rocky Point Road) is a three storey residential flat building. To the south, across Selmon Street, are single storey residential dwellings, constructed with red bricks and with terracotta pitched roof, large street trees and a large garden bed on Councils nature strip. On the southern corner of Rocky Point Road and Selmon Street is 380-382 Rocky Point Road accommodating a Childcare Centre and Senior Citizen Centre.

The surrounding area consists of both single residential dwellings, dual occupancies, residential flat buildings and commercial properties with variable lot size, frontages and architectural features and designs.



Ariel view of the subject site and surrounding lots

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 948901M

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

Reduction in Energy Consumption 35%
Reduction in Water Consumption 40%
Thermal Comfort Pass

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

State Environmental Planning Policy (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. Rocky Point Road. In this regard, clause 101- Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site a secondary access at the side of the site known as Selmon Street. Vehicular entry and exit will occur from this street which connects to Rocky Point Road. Accordingly, the proposal has been sent to the Roads & Maritime Service (RMS). The authority has responded granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

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

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

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

The application proposes to remove all existing on-site trees and all trees along Council's footpath.

Council's tree officer has raised no concerns with the removal of the trees subject to the replacement of trees in accordance with the landscape plans submitted. The landscape plan proposes thirteen additional trees ranging from either Smooth-barked apple; Heath banksia and Tuckeroo with the addition of seven street trees which will be advised by Council as a condition of consent.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Clause 4.1.7 of the Rockdale DCP2011

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 has been referred to the Design Review Panel on two separate occasions under the Pre Development application (PDA-2018/14) and under the current Development Application (DA-2018/218). The most recent DRP meeting was held on 4 October 2018. The panel raised some concerns relating to landscaping, however, support was given to the building aesthetics and materiality and acknowledges the positive design changes that have been taken into consideration since the comments made under the pre-development application.

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

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

Principle 1 – Context and Neighborhood Character

The Panel considers the design is a good fit in its context. The Panel supports the design development.

Principle 2 – Built Form and Scale

The Panel considers the built form and scale is appropriate. The Panel considers the setbacks to adjacent developments, and to street frontages are acceptable. The Panel supports the location of the pedestrian entry from Selmon Street. The refinement of the built form in its landscaped setting has further enhanced the design outcome

Principle 3 – Density

The Panel considers the density is appropriate

Principle 4 - Sustainability

The Panel encourages the Applicant to develop and maximise opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. The Panel continues to strongly encourage the inclusion of sustainability initiatives in the design above and beyond those required by BASIX.

Comment: Some changes have been implemented to include sustainable initiatives in the design and have formed part of the amended plans submitted on 6 December 2018 showing solar panels on the roofs of the development.

Principle 5 – Landscape

The Panel notes the landscape proposal is yet to be fully resolved and encourages the following:

- High quality, layered screening to the north and eastern boundaries.
- Provision of communal amenities such as shade structures and BBQ areas.
- Large scale canopy trees within the deep soil zone.
- Exploration of the retention of the existing large scale canopy tree (lillypilly).
- Direct access between the POS and the COA.

The Panel supports the concept of developing green walls within the built form and notes this is yet to

be documented within the landscape plan. Further detail is also required within the landscape documentation to provide a high level of information and variety of plant species across the site. The Panel notes that while some of the above initiatives have been adopted the following items need to be addressed:

1. Screening behind the water feature to the adjoining property;
2. Larger scale planting within the landscape treatment to the eastern boundary;
3. Provision of universal access within the communal space;
4. Provision of amenities to encourage the use of the communal open space by residents;
5. The landscape plan needs to provide further information to the planter bed on level 3;
6. The impact on adjacent property of the proposed north-east retaining wall and fence structure to be reviewed.

Comment: Some changes have been implemented to include sustainable initiatives in the design and have formed part of the amended plans submitted on 6 December 2018 showing additional planting behind the water feature and additional amenities within the communal open space. Large scale screening along the eastern elevation is difficult to achieve due to the basement below.

Principle 6 – Amenity

The Panel is generally supportive of the direction of the design development, subject to the comments above, and notes the minimum communal open space requirement has not yet been achieved. The Panel has no further comments.

Comment: As mentioned above, the amended plans submitted on 6 December 2018 show additional screening and amenities consisting of a BBQ area and pergola within the communal open space area.

Principle 7 - Safety

The Panel has not identified any safety concerns.

Principle 8 - Housing Diversity and Social Interaction

The Panel supports the diversity of the apartment mix.

Principle 9 – Aesthetics

The Panel generally supports the building's aesthetics and materiality. The Panel notes the overhang of level 4 has the potential of being uncomfortable if the detail design is not well managed, and notes that recessing this floor rather than projecting it could result in reduced visual impact and equally acceptable design. The Panel acknowledges the positive design changes that have now been introduced.

RECOMMENDATION

The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.

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
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>Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary.</p>	<p>The application proposes a 6m setback from the shared northern side boundary and eastern rear boundary.</p>	Yes
3D - Communal and Public open space	<p>Communal open space has a minimum area equal to 25% of the site area.</p> <p>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.</p>	<p>Based on the 1,143m² site area, 286m² of communal open space is required.</p> <p>The application provides 314sqm of communal space with more than 50% of the communal space receiving over 2 hours of direct sunlight between 9am and 3pm in June</p>	Yes
3E - Deep Soil Zones	<p>7% of the site area with 3m dimensions for sites between 650m² - 1500m².</p>	<p>189sqm of area with a 3m dimension has been provided to allow for deep soil planting. This equates to 17% of the site area</p>	Yes

3F - Visual Privacy	Min separation - side & rear boundaries:			The RFB requires a 6m setback from habitable rooms and balconies as it is a four storey building with the majority of the third floor sitting under the 12m height.	Yes
	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	The visual privacy outcomes proposed are generally acceptable. Some perceived impacts may be generated from the third floor eastern facing balcony, however, the balcony is setback 6m from the boundary and the adjoining neighbouring RFB is setback 5m from the shared boundary. The separation of the two blocks within the subject site have louvered windows facing the communal space.	
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. Parking provided off-street.	A total of 24 spaces are required. A total of 24 spaces are provided which includes two visitor spaces	Yes												
4A - Solar and daylight access	Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w9am& 3 pm mid-winter. Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter.	A total of 12/15 apartments or 80% would receive a minimum of 3 hours sunlight between 9am and 3p mon June 21st. All apartments will receive direct solar access between 9am – 3pm in mid-winter.	Yes Yes												
4B - Natural ventilation	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.	All units achieve cross ventilation	Yes												
4C – Ceiling heights	<table border="0"> <tr> <td colspan="2">Minimum ceiling heights:</td> </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 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 area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	The design of the development is capable of achieving the required floor to ceiling heights. All units have a floor to ceiling height of approximately 2.8m.	Yes
Minimum ceiling heights:															
Habitable	2.7m														
Non-habitable	2.4m														
Two storey apartments	2.7m main living 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>4D - Apartment size and layout</p>	<p>Minimum internal areas:</p> <table border="1"> <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 area includes only one bathroom. Additional bathrooms increase area by 5m² each. 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>The sizes of the proposed apartments all achieve the minimum size requirements.</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"> <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. 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>All balconies satisfy the minimum area required for each respective dwelling type</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 eight.</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"> <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 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																	

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.6 Architectural roof features	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
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R4 High Density Residential

The subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a residential flat building which constitutes a permissible development only with development consent. The objectives of this zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

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

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the two existing dwellings and associated structures over the two Lots and hence satisfies the provisions of this Clause.

4.3 Height of buildings

The height of the proposed building is 14.8m which exceeds the maximum 14.5m height permitted in Clause 4.3 (Height of buildings) of RLEP 2011.

In accordance with clause 4.6 of RLEP 2011, the applicant has requested that a variation to the maximum building height requirement be allowed due to the following:

- The non-compliance is minor with a 2% departure from the standard
- The proposal will have acceptable impacts on all adjoining neighbours
- The proposal has no material impacts and does not obstruct any views from surrounding development to important local vistas

The proposed height will have a minimal adverse impact in terms of building dominance, solar access,

light and air and therefore the proposed height of 14.8m satisfies the relevant objectives of Clause 4.3 in RLEP 2011.

The applicant's request to vary the development standard Clause 4.3 (height of buildings) is considered to be reasonable as the variation is consistent with the objectives in Clause 4.6 (Exceptions to development standards). Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation is supported in this instance.

4.4 Floor space ratio - Residential zones

The Gross floor area of the proposed development has been calculated as 1,141sqm over a site area of 1,141sqm. In this regard, the proposed floor space ratio (FSR) for the building is 1:1 and therefore does not exceed the maximum FSR for the land (1:1) as shown on the Floor Space Ratio Map.

The FSR is broken up into the following:

Ground floor: 284sqm
First floor: 284 sqm
Second floor: 284sqm
Third floor: 275sqm

Further, the proposed density is in accordance with the desired future character of Rockdale, will have minimal adverse environmental effects on the use or enjoyment of adjoining properties, and will maintain an appropriate visual relationship between new development and the existing character of the area.

Accordingly, the proposed FSR for the development meets the objectives and satisfies the maximum FSR permitted by Clause 4.4 in RLEP 2011.

4.6 Exceptions to development standards

Clause 4.6 Variation to Height

The site is nominated as having a maximum building height of 14.5m on the height of building map, and with a proposed maximum height of 14.8m, which is a breach of 0.3m or a departure of 2% from the standard.

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposals variation to the 14.5m height of building requirement, stating that it is unnecessary and unreasonable in the particular circumstances. Excerpts of the applicant's response are provided below:

- If the proposed development were to comply with the maximum building height limit, given the orientation of the site there would no discernible difference in overshadowing between the two schemes.
- The non-compliance does not generate any more significant detrimental impacts than what would be generated by a complying development.
- The proposal is consistent with the intent of the zone and the future character of the area and promotes a high-quality urban form.

- The proposal allows for satisfactory exposure for sky exposure and daylight surrounding buildings that would be achieved by a complying development.
- The proposal is consistent with other development along Rocky Point Road and offers a well-resolved transition between building forms along Rocky Point Road

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the Height of Building development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of Rockdale Local Environmental Plan 2011, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

- 1 The objectives of the standard are achieved notwithstanding non-compliance with the standard.
- 2 The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
- 3 The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
- 4 The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
- 5 The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed separately below:

Is the development standard unreasonable or unnecessary in the circumstances of the case?

Officer's Comments:

The applicant has provided justification for the variation to height, in that it is viewed as a minor variation of 2%. The additional height does not result in an increased bulk, and due to the east-west orientation of the site does not result in a significant increase to overshadowing. The Floor Space Ratio of the proposal does not exceed the development standard. With the increase in height allows for a

better internal amenity for the future occupants and is in line with the streetscape character. Therefore, strict compliance with the standard is assessed as unreasonable.

Are there sufficient environmental planning grounds to justify contravening the development standard?

Officer's Comments:

- The applicant has demonstrated that although there is an increase in height, the site will maintain acceptable impacts on the adjoining properties in terms of overshadowing.
- The built form proposed is in keeping with similar development on Rocky Point Road, specifically, the recently approved RFB at 1B Park Road (immediately adjoining the subject site to the north) which has an overall height of 17.02m which exceeds the height standard by 2.52m and an FSR approved over the standard by approximately 73sqm.
- Setbacks to the street, sides and rear are compliant. A sufficient amount of landscaping has also been provided within the front and side setbacks which soften the appearance of the development.
- The proposed development incorporates a number of design features and wall articulation to reduce the bulk of the proposal. The non-compliant portion of the building, located on the fourth floor is set back from the building edge which reduces the perceived impact of the building from the street.

Will the proposed development 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 following matters pursuant to Clause 4.6 also considered:-

- Objectives of Clause 4.6.
- Objectives of the Height of Building Standard.
- Public interest and public benefit of maintaining the development standard.
- Concurrence is assumed per planning circular PS 08-003.

Objectives of Clause 4.6

The objectives of Clause 4.6 (pursuant to Clause 4.6(1) of Rockdale Local Environmental Plan 2011) are:

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

Officer's Comments:

Council recognises that the proposal meets the objectives of Clause 4.6 and those of the height of building standards notwithstanding the proposed non-compliance. The proposal will facilitate a four-storey residential flat building and achieves a better outcome for the future occupants without compromising design or creating negative impacts on the adjoining properties.

Objectives of the Height of Building

The objectives of Clause 4.3 Height of Buildings of the Rockdale Local Environmental Plan 2013 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.

Officer's Comments:

The proposal is consistent with the objectives of the height of the building development standard for the following reasons:-

- The height does not create an inappropriate scale or bulk for the development.
- Rocky Point Road is characterised by similar four-storey residential flat buildings, maintaining the prevailing streetscape and density of the area, which the development is in keeping with, given the four-storey form, and is viewed as contributing positively to the existing character of the area.
- The variance in height is predominantly located on the fourth floor, set back from the building edge, not directly contributing to the bulk of the building, and aims to maintain the predominant form of the roofs prevalent within the street. It is not viewed to be noticeably larger in scale than the other residential flat buildings within the street. The portion which does not comply with the height standard is limited in size, within the centre and closest to the northern elevation.
- The proposal has been designed to be in keeping with the streetscape and has taken into consideration the amenity of the adjoining properties regarding solar access and privacy and contributes positively to the character of the area.

Objectives of the zone

The Objectives of the R4 High-Density Residential zone is as follows:

- To provide for the housing needs of the community within a high-density residential environment.
- To provide a variety of housing types within a high-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Officer's Comments:

The proposal is permissible use within the zone and is in keeping with the zone objectives. The proposal provides high-density housing. The proposed development is consistent with the objectives within the zone.

Public Interest and Public Benefit

The proposed variation is in the public interest as it will facilitate a new residential flat building without adverse impact on the streetscape, locality and adjoining dwellings. The proposal is compatible with the existing development of the street and is in accordance with the Rockdale Development Control Plan 2011. There were no objections received during the public notification period for the proposal.

Summary

The Clause 4.6 exception to the height of building control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' Local Environmental Plan 2011 and Development Control Plan 2011 controls which are compliant with the majority.

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary. Maintaining and enforcing the development standard, in this case, is viewed as unreasonable.

The applicant's Clause 4.6 is well-founded and the minor departure in height of building development standard for 376-378 Rocky Point Road is in the public interest. On this basis, it is recommended that the development standard relating to the maximum height of building for the site pursuant to Clause 4.3 of the Rockdale Local Environmental Plan 2011 should be varied in the circumstances as discussed above.

5.6 Architectural roof features

The provisions of clause 5.6 permit architectural roof features to breach the height control if Council is satisfied that the roof feature is a decorative element of the uppermost portion of the building, is not an advertising structure, does not include any floor space (and is not reasonably capable of modification into floor space) and will cause minimal overshadowing.

The proposed roof complies with these requirements and will provide visual interest to the overall aesthetics of the building. Therefore proposed development satisfies the objectives and requirement of Clause 5.6.

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

6.2 Earthworks

Earthworks including excavation are required on site for the basement level. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. However, notwithstanding, relevant conditions are included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 90 metres to Australian Height Datum (AHD). The proposed building height is at 24.10 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves the construction of an on-site detention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause. The development provides for adequate drainage design and standard conditions are to be included in the draft Notice of Determination that the discharge of stormwater will be required to comply with Rockdale Technical Specification for Stormwater Management with appropriate certification and checklist completed and received prior to the release of the Construction Certificate.

6.12 Essential services

Services will generally be available on the site. Undergrounding of power lines will be conditioned for the development which will total 3 Ausgrid power poles. New lighting poles will be required along Rocky Point Road satisfying V2 lighting requirements. 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
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management		
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Residential Flat Buildings	Yes	Yes - see discussion
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.6 Basement Parking - Residential Flat Buildings	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.7 Service Lines/Cables	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes
4.7 Storage Areas	Yes	Yes
4.7 Hot Water Systems	Yes	Yes

4.1.1 Views and Vista

There is the potential of view loss from the adjoining rear residential flat building at 2-6 Selmon Street looking west towards Kogarah Bay, however, any redevelopment of the subject site will inevitably obstruct views facing west for the rear neighbours. It would be unreasonable to redesign the proposal to allow for any view sharing, considering that the rear building is three storeys in height which is set lower from the proposed building and any future building. Further, no concern was raised from any of the neighbouring properties. As the proposal is fully compliant with only a minor departure in height (300mm) the impacts to view loss are assessed as reasonable in the circumstance.

4.1.9 Lot size and Site Consolidation - Residential flat buildings

The application proposes to amalgamate both 378 and 376 Rocky Point Road, to create an overall site area of 1,147sqm. The amalgamation also creates a frontage of 26.825 to Rocky Point road and benefits from a side frontage to Selmon Road measured at 48.590m which complies with Control E of Part 4.1.9 of RDCP 2011. Further, the application satisfies the Objectives of Part 4.1.9 where the proposal promotes efficient use of land, creates larger development sites for high-density development, ensures lots sizes are sufficient for development and maintains amenity to adjoining neighbours.

4.2 Streetscape and Site Context - General

The proposal is located in a R4 High-Density Zone. The immediate context is relatively high scale along the eastern side of Rocky Point Road, with a mixture of small to high developments along the western side of Rocky Point Road within close proximity to the subject site. The surrounding developments vary between single residential dwellings, dual occupancies, residential flat buildings and commercial and mixed-use developments. The proposed residential flat building is consistent with the desired and future character of the area in terms of height, bulk and scale, and is generally appropriate in this context.

The adjoining flat building to the north known as 374 Rocky Point Road has a large planter bed structure facing Rocky Point Road. The adjoining building further to the north at 1B Park Road has yet to be constructed but has been approved with a front setback of 3m from Rocky Point Road. As such, the proposed front setback which ranges between 5-6m is consistent with the variable setbacks of the adjoining buildings and in this regard, the residential streetscape will be retained and complemented.

The proposed built form on site complies with the required height and FSR requirements. The proposed development has been designed with appropriate use of articulation & modulation to the facades via the incorporation of balconies, pedestrian entries at ground level, upper-level voids and range materials which add visual interest to the facades.

The front facade along Selmon Street is divided into three separate vertical modules, differentiating between the residential components of the building from the vertical circulation located in the centre. Several different materials, tones and layering are applied to the facade which reduces the

impacts of perceived bulk and scale of the development, utilising brickwork (brahman granite), off-form concrete, large panelled louvres and stone features along the perimeter of the ground floor. The elevation facing Rocky Point Road (western elevation) will be obscured with the proposed planting of trees within the common area and on Councils footpath, which will provide privacy and noise attenuation for the front facing balconies. The main features of this elevation consist of large privacy panels constructed of anodised aluminium and depicted with a variety of brown and cream tones shown on the photomontages. The front balconies will also provide casual surveillance of the street. Landscaping and other features have been sited so as to provide a clearly defined public, semi-public and private spaces.

The development will have a front entry, both pedestrian and vehicular, addressing Selmon Street, with the building's frontage and entry points being readily apparent from the street.

The development provides for a balanced approach between horizontal and vertical articulation to both Rocky Point Road and Selmon Street. The building also presents well to the adjoining flat buildings with a range of planting at ground level as a buffer from the high traffic on Rocky Point Road. A range of materials, colours and finishes is proposed to provide for a modern contemporary building. As such, the proposed residential flat building compliments and enhances the existing streetscape character and satisfies the Objective of Part 4.1 of RDCP 2011.



Image: Image of proposal viewed from the Corner of Rocky Point Road and Selmon Street

4.3.1 Open Space and Landscape Design - Residential Flat Buildings

The proposal provided approximately 440sqm of soft landscaping or 38% of the total site area. The minimum requirement for soft landscaped area for a residential flat building is set at 15% and the proposed development exceeds that minimum requirement. As such, the application satisfies the Controls and Objectives of Part 4.3.1 where the development provides privacy to and

enhances environmental amenity, streetscape and promotes a scale and density of planting that is appropriate to the surrounding built form.

4.3.3 Communal Open Space

The development provides 314sqm of communal space with more than 50% of the space receiving over 2 hours of direct sunlight between 9-3pm in June. The communal space is located to the north of the site and wraps around to the east allowing for direct solar access. Part 4.3.3 of RDCP 2011 requires that a residential flat building must provide communal spaces at the rate of 5sqm per dwelling. As such, 75sqm is required to be provided and is achieved with the proposal. The proposal satisfies the Controls and Objectives of Part 4.3.3 of RDCP 2011 where the development provides active recreation opportunities and ensures soft landscaping and deep soil planting is provided.

4.4.1 Energy Efficiency - Residential

The applicant has submitted a BASIX Certificate for the proposed development. The commitments made result in reductions in energy and water consumption and will achieve the efficiency target set under SEPP BASIX. Concerns were raised by the Design Review Panel, requesting that the applicant develop and maximise sustainability initiatives. The applicant has responded to these requests and has included solar panels in their design. The application satisfies Part 4.4.1 of RDCP 2011.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The applicant has submitted shadow diagrams for 9 a.m., 12 p.m. and 3 p.m. on June 21. It should be noted that to the south of the subject site is Selmon Street and the majority of the shadows cast by the winter sun falls directly onto Selmon Street, with minimal impacts to the neighbouring properties located on the opposite side of Selmon Street. The neighbouring properties to the south and east will retain more than three hours of solar access between 9am-3pm in the middle of winter.

The proposed residential flat building has been designed so that more than 70% of the units have a north facing aspect and receive a minimum of three hours of direct solar access between 9am and 3pm in the middle of winter.

Therefore, the development satisfies the Controls and Objectives of Part 4.4.2 of RDCP 2011 where the proposal ensures sunlight access is provided to private open spaces and habitable rooms within the development and that the proposal does not unreasonably diminish sunlight to the neighbouring properties.

4.4.5 Visual privacy

The subject site is located within an R4 High-Density Residential Zone. Immediately surrounding the subject site to the north is a two storey portion of a four-storey residential flat building at 374 Rocky Point Road. To the east (rear) of the subject site is a three storey residential flat building, and across Selmon Street to the south is a single storey dwelling being used as a childcare centre.

Nine balconies are proposed along the north elevation to allow for optimum solar access into the proposed units. These balconies face nine windows at 374 Rocky Point Road with six of these windows constructed with obscure glazing. The remaining three consist of two windows to a bedroom on the first floor and one window on the ground floor also to a bedroom. The image below depicts the elevation described above of the adjoining property to the north at 374 Rocky Point Road, facing the subject site:

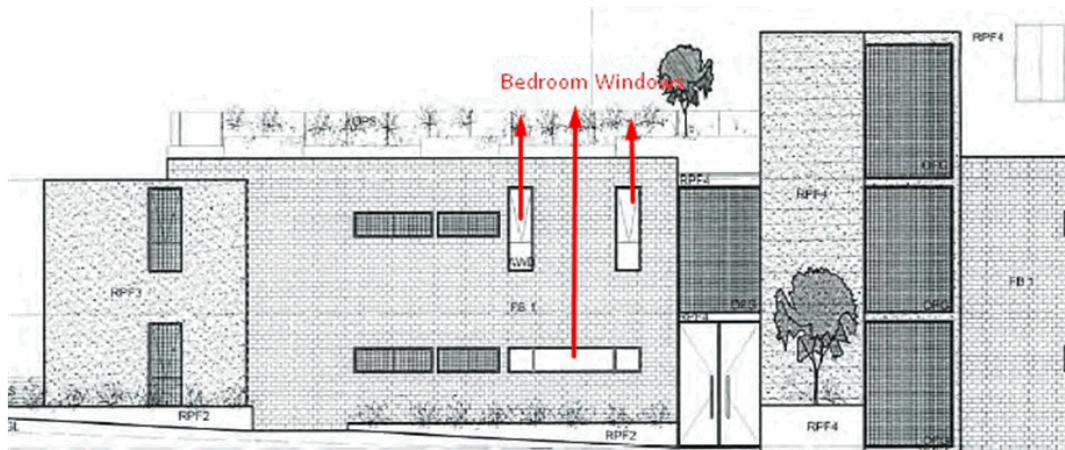


Image: The southern facing elevation of the adjoining property, facing the subject site.

Taking into consideration that the proposed balconies are separated from the adjoining windows above by 9m, and coupled with the proposed vegetation along the shared northern boundary, the impacts of overlooking into the adjoining neighbours to the north are assessed as reasonable.

Along the proposed eastern elevation is one balcony on the third floor (unit 3.03) directly facing the rear three storey residential flat building at 2-6 Selmon Street. Two other proposed balconies have some over-looking generated from units 1.03 on the first floor and unit 2.03 on the second floor, however, the impacts of over-looking are not assessed as significant as they do not look directly into the private internal habitable space of the units at 2-6 Selmon Street.

The side of 2-6 Selmon Street contains fifteen windows directly facing the eastern elevation of the proposed building. Between the balcony at unit 3.03 and windows at 2-6 Selmon Street, is approximately 12m which is a sufficient distance to provide a visual buffer within a High-Density Residential Zone. As there is only one balcony creating direct over-looking impacts, it is assessed that the proposed eastern elevation generates a reasonable level over-looking impacts.

The design of the building has taken into consideration the privacy of the adjoining neighbours by ensuring that majority of balconies are facing away from habitable windows and that privacy screens in the form of louvres are provided to all windows where possible.

There are no significant over-looking impacts to the adjoining neighbours to the south across Selmon Street as the majority of the proposed windows along the southern elevation are fitted with louvred screens. The balconies facing west onto Rocky Point Road will be partially obscured with the proposed trees both within the subject site and on Council's footpath which will help obscure over-looking to the private internal habitable spaces of the neighbouring dwellings across Rocky Point Road.

Louvres are also provided internally between units to improve visual privacy. The recommendations of the submitted acoustic report will form part of the conditions of consent to ensure that acoustic privacy between units and the noise generated from Rocky Point Road is in accordance with the requirements of the AAAC Star Rating 5.

Taking the above into consideration, the applicant has incorporated design measures to ensure that a

reasonable level of privacy is maintained for neighbouring properties and the future occupants of the proposed development. As such, the application is assessed as satisfying the Objectives of Part 4.4.5 of RDCP 2011.

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:

Provision of 10%-30% 1 bedroom units, 50-75% 2 bedroom units, and 10-20% 3 bedroom units.

The proposed unit mix does not comply with the requirements of RDCP 2011. In this case, the proposal includes three (20%) one-bedroom units, six (40%) two-bedroom units and six (40%) three-bedroom units. The applicant states that the unit mix has been provided in response to market demand and housing affordability. The proposal provides a mix of units that is consistent with surrounding development and the objectives of the clause. The proposed variation is minor. The mix is therefore considered satisfactory in this case.

Minimum 10% of units being adaptable in accordance with AS 4299, and barrier-free access to be provided to a minimum of 20% of apartments.

Part 4.5.1 requires that a minimum of two dwellings are to be provided as an adaptable in accordance with AS 4299. The proposed development is accompanied by an Access Compliance Assessment Report prepared by Matt Shuter + Associates (dated 16 August 2018). The report concludes that the proposal will be capable of providing the required number of accessible units (and associated car parking spaces), and achieving compliance with the BCA and applicable codes/standards subject to the recommendations contained in Section 3.0 of the report.

The proposal is therefore considered to satisfy the requirements of Part 4.5 of RDCP 2011 subject to the inclusions of the recommendations of the Access Compliance Assessment Report within the Draft Notice of Consent.

4.6 Parking Rates Residential Flat Buildings

The following is a breakdown of the proposed parking configuration:

Dwelling Size	Required	Provided	Compliance
1 - 2 bedroom unit (9)	1spaces/unit = 9	21	Yes
3 or more bedrooms dwelling (6)	2spaces/unit = 12		
Visitors Parking	1 space/5 dwellings = 3	3	Yes
Residential Total (15 units)	24 spaces	24	Yes
Adaptable unit (2)	2 spaces	2	Yes (conditioned to comply with AS/NZS2890.6)
Motorcycle space	1 space/15 car spaces	1	Yes
Bicycle space	1 space/10 dwellings = 2	2	Yes (conditioned)

Car wash bay (can be a visitor space)	Min 1 visitor space (3.5m wide x 5.5m long)	1	Yes
Service Bay residential	1 SRV	1	Yes (shared with visitor space)

The application satisfies the minimum parking requirements. The SRV car space will be used with the carwash bay. One of the accessible parking spaces is not designed in accordance with AS/NZS 2890.6. The loading/car wash/visitor bay can only handle a forward in reverse out maneuver from an SRV vehicle due to headroom and swept path constraints. This is acceptable as the traffic report has calculated that the traffic generation will be 9 vehicles per hour which is less than 25 vehicle per hour and hence reversing exit is permissible. A reversing exit in one movement will be possible due to the alignment of the parking space with the ramp. However, it is noted that RMS has provided concurrence and stated that all vehicles must enter and exit in a forward direction. So hence it is proposed to restrict the use of the loading bay to a maximum size of a B99 vehicle.

The amended plans provided include some issues regarding the driveway ramp and its interaction with the internal circulation of the basement, this will be addressed via conditions of consent

4.6 Basement Parking - Residential Flat Buildings

The application proposes a single storey basement accommodating 24 parking spaces. Access to the basement is via Selmon Street which ensures that on-site parking is convenient and safe and does not dominate or detract from the appearance of the development and the local streetscape. The basement does not compromise deep-soil planting on the ground level and allows for adequate egress and ingress to the site. As such, the application satisfies Control 14 and the Objectives of Part 4.6 of RDCP 2011.

S4.15(1)(a)(iv) - Provisions of regulations

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - *Demolition of Structures* when demolition of a building is involved. In this regard, a condition of consent is proposed to ensure compliance with the standard.

Council's building surveyor has assessed the fire safety considerations under the BCA and conditions of consent are recommended.

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.

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. Council did not receive any submissions on this proposal.

S4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

S7.11 Contribution towards provision or improvement of amenities or services

A Section 7.11 contribution of \$76,866.04 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Rockdale Section 94 Contributions Plan 2004 (Amendment 5). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions will be used towards the provision or improvement of the amenities and services

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 45.72 m Building Height Civil Aviation Regulations, however, the proposed building height at 14.8m 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. DThe development must be implemented substantially in accordance with the plans

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
Site plan DA 1.00 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
Site analysis DA 1.01 Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
GFA calculations DA 1.02 Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
Ground floor plan DA 2.00 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
Ground floor adaptable plan DA 2.00a Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
First-floor adaptable plan DA 2.01a Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
First-floor plan DA 2.01 Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
Second-floor plan DA 2.02 rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
Third-floor plan DA 2.03 Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
Roof plan DA 2.04 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
Basement plan DA 2.99 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
Section AA DA 3.00 Rev A	CMT Architects Australia Pty Ltd	16 June 2018	23 August 2018
Driveway section DA 3.01 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
South elevation DA 4.00 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
North elevation DA 4.01 Rev B	CMT Architects Australia Pty Ltd	6 December 2018	6 December 2018
East and west elevation DA 4.02 Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
Streetscape elevation DA7.00 Rev A	CMT Architects Australia Pty Ltd	10 July 2018	23 August 2018
Landscape plan L-01 Issue C	RFA Landscape Architects	6 December 2018	6 December 2018
Drainage Details Job no.1447.18 Dwg D2 Rev A	LMW Deston Group	July 2018	

Basement stormwater drainage concept plan Job no.1447.18 Dwg D3 Rev F	LMW Deston Group	December 2018	6 December 2018
Ground floor stormwater drainage concept plan Job no.1447.18 Dwg D4 Rev D	LMW Deston Group	December 2018	6 December 2018
OSD details Job no.1447.18 Dwg D4A Rev B	LMW Deston Group	August 2018	6 December 2018
First floor and second-floor water drainage plan Job no.1447.18 Dwg D5	LMW Deston Group	August 2018	6 December 2018
Third floor and roof stormwater drainage concept plan Job no.1447.18 Dwg D6 Rev B	LMW Deston Group	August 2018	6 December 2018
Site management plan - demolition Job no.1447.18 Dwg E1 Rev A	LMW Deston Group	July 2018	23 August 2018
Site Management plan - construction Job no.1447.18 Dwg E2 Rev A	LMW Deston Group	July 2018	23 August 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 948901M 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. Balconies shall not be enclosed at any future time without prior development consent.
7. 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.
8. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown

- on the approved plans and authorised by a subsequent construction certificate.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

Development specific conditions

The following conditions are specific to the Development Application proposal.

10. 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.
11. 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.

12. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
13. 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.
14. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
15. 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.
16. 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.
17. Temporary dewatering of the site to construct the subsurface structure is not permitted.
18. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
19. Services or utility systems shall not be located in the garbage room.
20. The development shall be insulated to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report by Koikas Acoustics Pty Ltd, dated 31 July 2018 and received by Council on 23 August 2018.
21. Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.

22. A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
23. Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
24. The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, 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 the landscape maintenance has been carried out in accordance with approved landscape plans.

25. Trees located within the footprint of the proposed buildings may be removed.
26. (1) 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.
- (2) A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate.
27. (1) A Landscape Maintenance Schedule is required to be submitted to Council or to Private Certifying Authority prior issue of Construction Certificate. Schedule shall cover a 12 month period and provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information:
 - (a) Shrub pruning/trimming (frequency, plant requirements);
 - (b) Fertilising and pest control (soil testing, types, rate, frequency);
 - (c) Mulching, weeding and soil improvement (frequency, materials);
 - (d) Irrigation (checks, adjustments);
 - (e) Adjustment of tree stakes and ties;
 - (f) Tree maintenance (fertilising, mulching, special tree requirements);
 - (g) Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, planter box walls etc); and
 - (h) Planter boxes/roof gardens/green wall (specialised maintenance requirements).
28. The design and construction of the off-street parking facilities shall comply with Australian Standards, as follows:
 - Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 - The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS/NZS 2890.1, AS 2890.2 and AS/NZS 2890.6.
 - Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1, AS2890.2 and AS2890.6.
 - Commercial vehicle facilities shall be designed strictly in accordance with

AS2890.2:2002.

- Loading and unloading within the site shall be restricted to vehicles not exceeding the size and mass description of the SRV vehicle from AS 2890.2:2002. Commercial vehicles greater in size and mass than the SRV vehicle are not permitted to enter the site. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.
- Parking spaces shall not be enclosed without further approval of Council.
- Comply with Council’s Vehicular Entrance Policy in relation to the design of the access driveways.
- Allocate all off-street visitor parking, loading bays and car wash bay as ‘common property’ on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

29. A minimum total of 21 residential car spaces, 3 visitor car spaces, 1 motorcycle parking space, 2 bicycle parking spaces and 1 car wash bay/loading bay shared with a visitors parking space, must be provided within the development. The parking must be allocated in accordance with the Rockdale Development Control Plan (RDCP) 2011 requirements in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

Dwelling Size (Proposed No. of units)	Required
Studio / 1 / 2 bed dwellings (9 units)	1 space/dwelling = 9 spaces
3 bedroom dwellings (6 units)	2 spaces / dwelling = 12 spaces
Total Car Parking Spaces for Residential Units	21 spaces (min.) (including 2 accessible spaces)
Visitor	1 space / 5 dwellings = 3 spaces
Bicycle (Res + Com.)	2 spaces minimum
Motorcycle (Res + Com.)	1 space minimum
Carwash Bay	1 car wash bay (shared with visitor space-3.5m wide)
Loading Bay	1 Loading Bay (shared with visitor space)

Note:

- All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.
- This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Prior to issue of the construction certificate

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

- 30. 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 \$31,598.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$19.00.
- 31. 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.
- 32. An application for Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- 33. A Section 7.11 contribution of \$76,866.04 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Rockdale Section 94 Contributions Plan 2004 (Amendment 5). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions will be used towards the provision or improvement of the amenities and services identified below.

Breakup:

Open Space Contribution	\$ 40,010.09
Town Centre / Streetscape Contribution	\$ 3,611.87
Pollution Control Contribution	\$ 10,359.84
Administration & Management Contribution	\$ 461.81
Local Infrastructure and Facilities Contribution	\$ 15,436.63
Community Facilities & Services Contribution	\$ 6,985.80
Total	\$ 76,866.04

- 34. Prior to the issue of the Construction Certificate the sum of \$5100.00 is payable to Council for removal of the eight street trees. 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. The street trees will be replaced by the Developer in accordance with the Landscape Plan.

35. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NER, shall be submitted to the Principal Certifier stating that the subsurface structural components located near the boundary of the public road and neighbouring properties, 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. An engineering design certificate is required to be submitted for the design of the Basement system including shoring wall.
36. A landscape plan, prepared by a qualified Landscape Architect shall be submitted to Council or the accredited certifier (AC) for approval with or before the application for a Construction Certificate. The plan shall be at a scale of 1:100 or 1:200 and comply with Rockdale Technical Specification Landscape and all other relevant conditions of this Consent.
37. The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
38. The applicant shall confer with Ausgrid to determine if installation of electricity conduits in the footway is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
39. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

All low voltage street mains in the streets 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 for the undergrounding works. Written confirmation of Ausgrid's requirements shall be obtained prior to the issue of Construction Certificate.

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.

40. 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.
41. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

42. *Details shall be submitted to Council for assessment and approval pursuant to*

Section 138 of the Roads Act 1993 in relation to the following:

- i) Construction of footpath and streetscape works.
 - ii) Public domain and drainage works.
 - iii) Footpath alignment, width and surface finish;
 - iv) Landscaping and tree planting areas;
 - v) Street lighting layout and details;
 - vi) Drainage plus kerb & gutter alignment and details;
 - vii) Adjustment/removal/relocation/protection of assets within the frontage;
 - viii) Removal of existing vehicular entrances and construction of new vehicular entrance.
43. Prior to issue of any 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, be along the critical edge (worst case) of the driveway and end at the bottom of the basement ramp (at minimum). Existing boundary levels shall be retained. Gradients and transitions shall be in accordance with AS/NZS 2890.1:2004. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), lengths and height clearances
44. Prior to the issue of any Construction Certificate, as excavation is required close to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing Chartered Professional Geotechnical Engineer must:
- (a) Prepare a geotechnical report for the site in line with current geotechnical engineering Australian Standards and practice with reference to all proposed works, protection of neighbouring structures and infrastructure, site soil profiles, site stability, risk assessment, substrata testing etc. with appropriate recommendations to ensure the development is carried out safely, and
 - (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective, and
 - (c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate, and
 - (d) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued.
- 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.

45. Prior to the issue of Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier. Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads Act 1993, via a permit application.
46. Prior to release of the Construction Certificate, a detailed Construction Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be submitted to the principal certifying authority for approval. The Plan shall be prepared by a RMS accredited consultant to address, but not be limited to, the following matters:
 - ingress and egress of vehicles to the site;
 - loading and unloading, including construction zones;
 - predicted traffic volumes, types and routes;
 - Pedestrian and traffic management methods; and
 - 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.

Note: The swept path of the longest construction vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to Certifying Authority for approval illustrating compliance with this requirement, prior to release of the Construction Certificate.

47. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction. Copy of the CMP shall be submitted to Council
48. Any sub-surface structure within the highest known groundwater table + 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 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.

Additionally, a design certificate is required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chattered Professional Engineer competent in Structural engineering. The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations

49. Prior to the issue of any Construction Certificate, a suitably qualified engineer shall provide the following required details for assessment and approval by the Principal Certifier.
- a) Swept path analysis shall be submitted. The swept path drawings shall include the entry/exit of the internal ramps within the basement levels, manoeuvring from the basement ramp into the basement vehicular circulation area, internal vehicular circulation and into all parking spaces; and
 - b) 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; and
 - c) Revise the basement floor plan and all other supporting documentation to regrade the gradient over the off street car parking spaces V01 and G01 until space 301 (located in the basement) and part of the vehicular circulation area in order to provide a smooth transition (max 5% grade) from the raised section of the basement ramp at RL 8.20m AHD to the normal basement level of RL 8.0m AHD. All plans shall be revised to reflect this requirement;
 - d) Ensure the parking facility is designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009; and
 - e) Provide two (2) bicycle parking spaces on the ground floor of the development designed in accordance with AS2890.3:1993.

Design certification shall be provided by a suitably qualified engineer certifying the above requirements.

50. 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, Loading Bay 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.
51. Prior to the issue of the Construction Certificate, detailed drainage design plans generally in accordance with stormwater drainage plan prepared by LMW Design Group P/L, Job no 1447.18, Revision D, dated DEC 18 for the management of stormwater are to be submitted to an Accredited Certifier for assessment and approval with the following revisions as specified below:
- a) Incorporate a Stormwater Quality Improvement Device into the proposed stormwater system to ensure compliance with Section 7.5 of the Rockdale Technical Specification Stormwater Management, and
 - b) A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement shall 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

c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.

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.

52. Prior to the issue of any Construction Certificate, all plans shall be revised to include a 3mx3m corner splay on the south western corner of the site (intersection of Rocky Point Road and Selmon Street) to be dedicated to Bayside Council for road widening purposes. No above or below ground structures are to be located within this area.
53. Prior to the issue of a Construction Certificate for the development, an application for Property Address Allocation and associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina

54. The recommendations of the Access Compliance Assessment Report Access Compliance Assessment Report prepared by Matt Shuter + Associates dated 16 August 2018 shall be adopted and shown on the plans prior to the issue of Construction Certificate.

Prior to commencement of works

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

55. 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.
56. 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.

57. 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.

58. 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.

59. 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.
60. 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.
61. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
62. 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.
63. 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.

64. 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.
65. 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.
66. 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.

67. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

68. 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.
69. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
70. 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.
71. 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.

72. 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.
73. All contractors shall obtain permits for, and comply with permit conditions during all stages of demolition and construction. Refer to Council "Work Activities on Council Sites Application Form" to obtain permits for the following activities listed below. Contractors must have a valid permit prior to undertaking any work or activity within the public domain. Fines apply if an activity commences without a valid permit being issued. All contractors shall comply with the following during all stages of demolition and construction:

Road, Footpath and Road Related Area Closure (EP05)

This permit will allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.

Stand and Operate Registered Vehicle or Plant (EP03)

This permit is used when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.

Occupy Road with Unregistered Item (EP02)

This permit will allow the applicant to place unregistered items within the roadway including waste containers and skip bins.

Works Zone (EP01)

This permit is used when a statutory work zone is required to conduct construction activities adjacent to the work site. These applications are assessed by Council officers and are referred to the Traffic Committee for approval.

Scaffolding, Hoarding and Fencing (EP04)

This permit applies to all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.

Temporary Shoring/Support (EP09)

This permit will allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.

Tower Crane (EP06)

This permit is used when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.

Public Land Access (EP08)

This permit is used by applicants to access or occupy Council land including access over plus access over and occupy any part of Council land.

Temporary Dewatering (EP07)

This permit is used when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.

74. 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.
75. 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.
76. 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.
 77. Trees located within the footprint of the proposed buildings may be removed.
 78. All existing trees located within the site may be removed.
 79. 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.
 80. 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.

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.

81. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
82. 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.
83. 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.

84. Lot 3 and Lot 4 of DP 976581 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
85. 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.
86. All replacement trees are to be planted both within the site and on the Council Nature Strip in accordance to the Landscape Plan. The trees are to be 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 suitable locations within the property on completion of the building works and prior to the final inspection.
87. 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.
88. 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.
89. 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.
90. 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".
91. 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.
92. A large convex mirror is to be installed near the bottom of the basement ramp in a strategic position chosen by a traffic engineer to provide increased sight distance for vehicles.
93. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
94. The dedication to Council of a 3mx3m corner splay on the south western corner of

the site (intersection of Rocky Point Road and Selmon Street) for road widening purposes.

Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.

95. Prior to occupation, bollards are to be provided for the accessible parking spaces in accordance with AS/NZS 2890.6.
96. All off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
97. 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.

98. 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.
99. 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.
100. The noise reduction measures specified in the noise report prepared by Koikas Acoustics Pty Ltd dated 31 July 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.
101. 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.
102. 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.
103. 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.
104. 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.
105. Prior to Occupation, Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the following facilities to provide for the maintenance of the facilities.
 - The stormwater detention facility to provide for the maintenance of the system.
 - The pump-out facility to provide for the maintenance of the system
 106. 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.
 107. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
 108. Prior to occupation a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the geotechnical report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

Integrated development/external authorities

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

109. Transport Roads & Maritime Services
 - All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height and depth) along the Rocky Point Road boundary.
 - All demolition and construction vehicles are to be contained wholly within the site or local road and vehicles must enter the site before stopping. A construction zone will not be permitted on Rocky Point Road.
 - All vehicles are to enter and leave the site in a forward direction.
 - The redundant driveway on the Rocky Point Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).
 - Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any roadworks.
 - A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Rocky Point Road are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.
- Details should be forwarded to: Suppiah.THILLAI@rms.nsw.gov.au
- A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.
- The proposed development should be designed such that road traffic noise from Rocky Point Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- 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 at no cost to the Roads and Maritime.
- A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- The proponent should be advised that the subject property is within a broad area currently under investigation for the proposed F6 Extension (F6E) Corridor. For further information about the corridor, please contact the F6 Team on 1800 789 297 or F6extension@rms.nsw.gov.au or by visiting <http://www.rms.nsw.gov.au/projects/sydney-south/f6/index.html>

Roads Act

110. 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.

111. 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.
112. 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.
 113. 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.
 114. 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.
 115. 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.
 116. 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).
 117. All works associated with the proposed development shall be at no cost to the RMS.

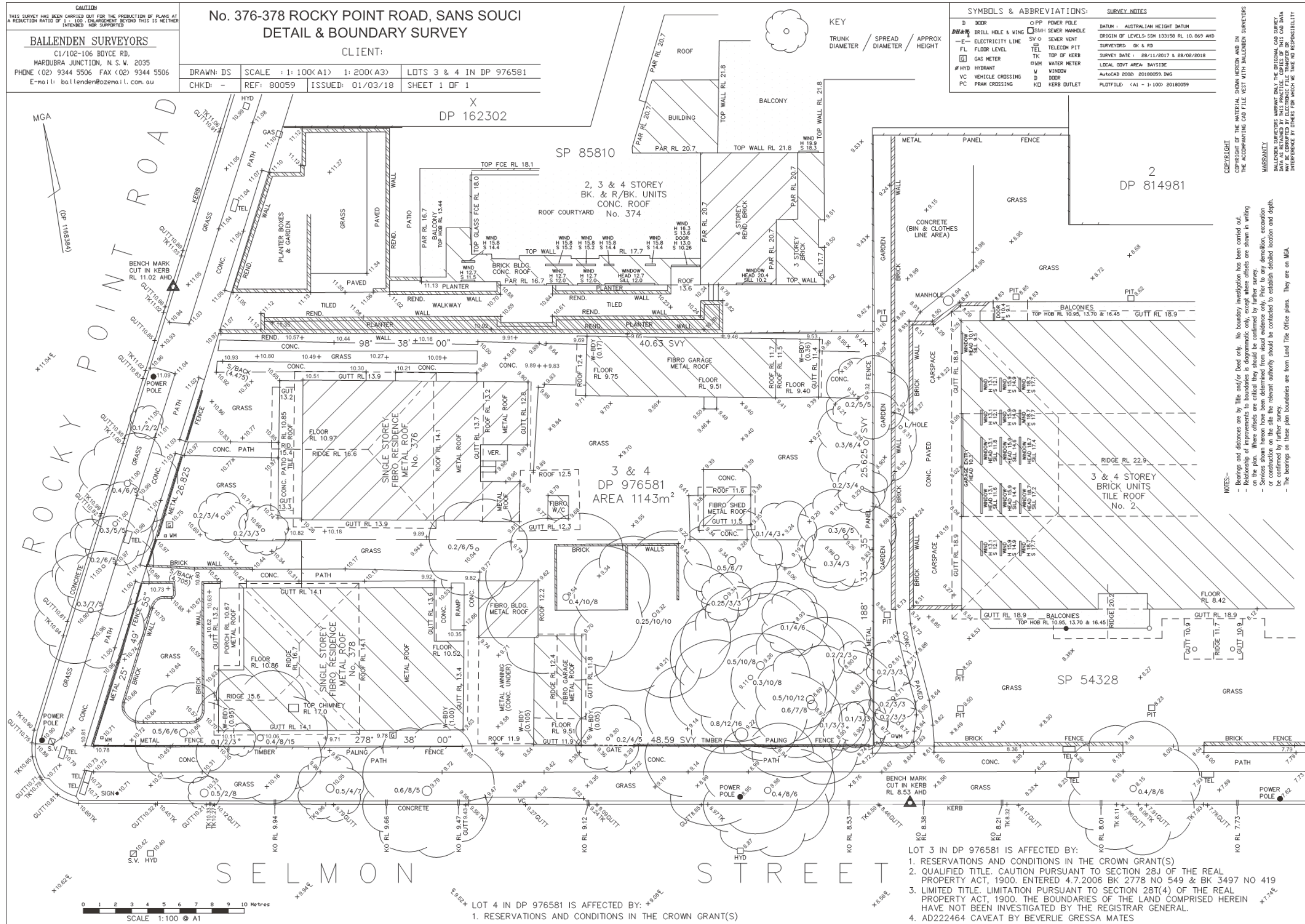
Development consent advice

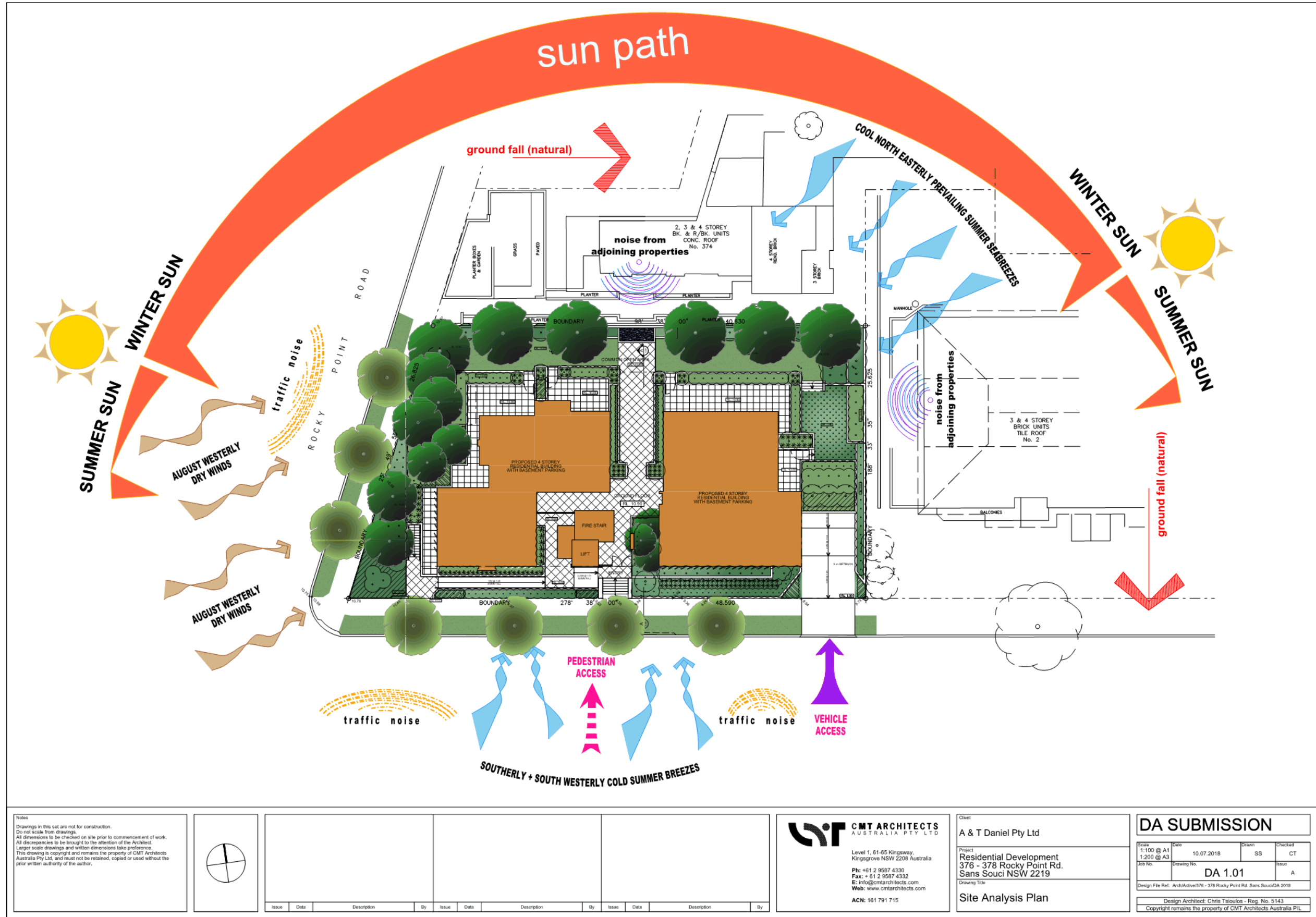
- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. *Dial Before You Dig*

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

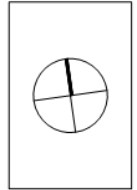
- c. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

- d. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
 - Protection of the Environment Operations (Waste) Regulation 2005
- All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.
- e. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.
- f. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- h. 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.





Notes
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 All discrepancies to be brought to the attention of the Architect.
 Larger scale drawings and written dimensions take precedence.
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Issue	Date	Description	By	Issue	Date	Description	By

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 ACN: 161 791 715

Client
A & T Daniel Pty Ltd
 Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**
 Drawing Title
Site Analysis Plan

DA SUBMISSION			
Scale 1:100 @ A1 1:200 @ A3	Date 10.07.2018	Drawn SS	Checked CT
ISS No.	Drawing No. DA 1.01	Issue A	
Design File Ref: ArchiActive/376 - 378 Rocky Point Rd. Sans Souci DA 2018			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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Site Plan

SELMON STREET

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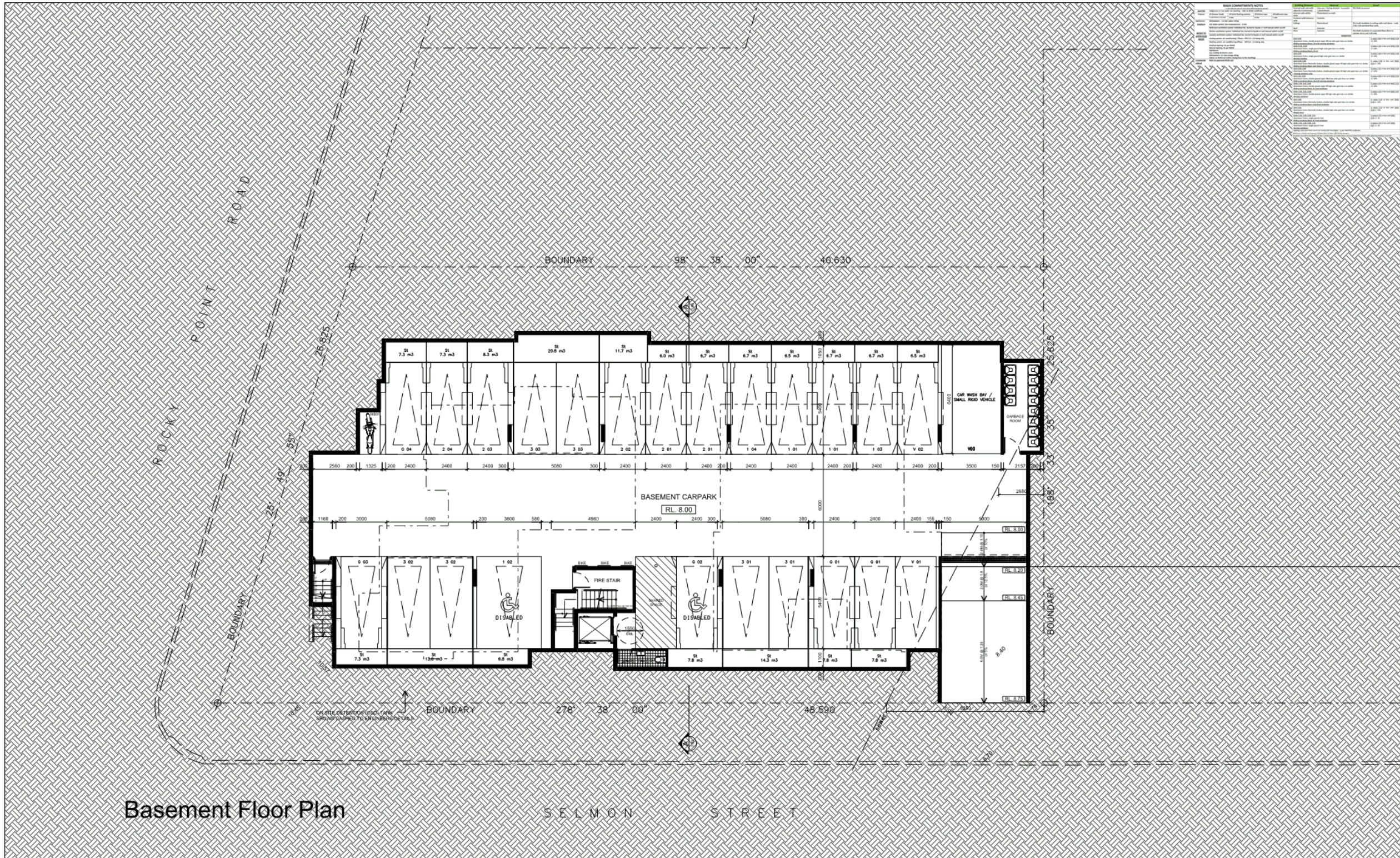
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B	06.12.18	Changes in accordance to Council comments	SS				

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 Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**
 Drawing Title
Site Plan

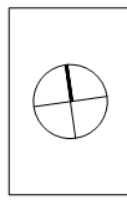
DA SUBMISSION

Scale 1:100 @ A1 1:200 @ A3	Date 10.07.2018	Drawn SS	Checked CT
Job No.	Drawing No. DA 1.00	Issue B	
Design File Ref: ArchActive/376 - 378 Rocky Point Rd. Sans Souci DA 2018			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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Basement Floor Plan

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Issue	Date	Description	By	Issue	Date	Description	By
B	06.12.18	Changes in accordance to Council comments	SS				

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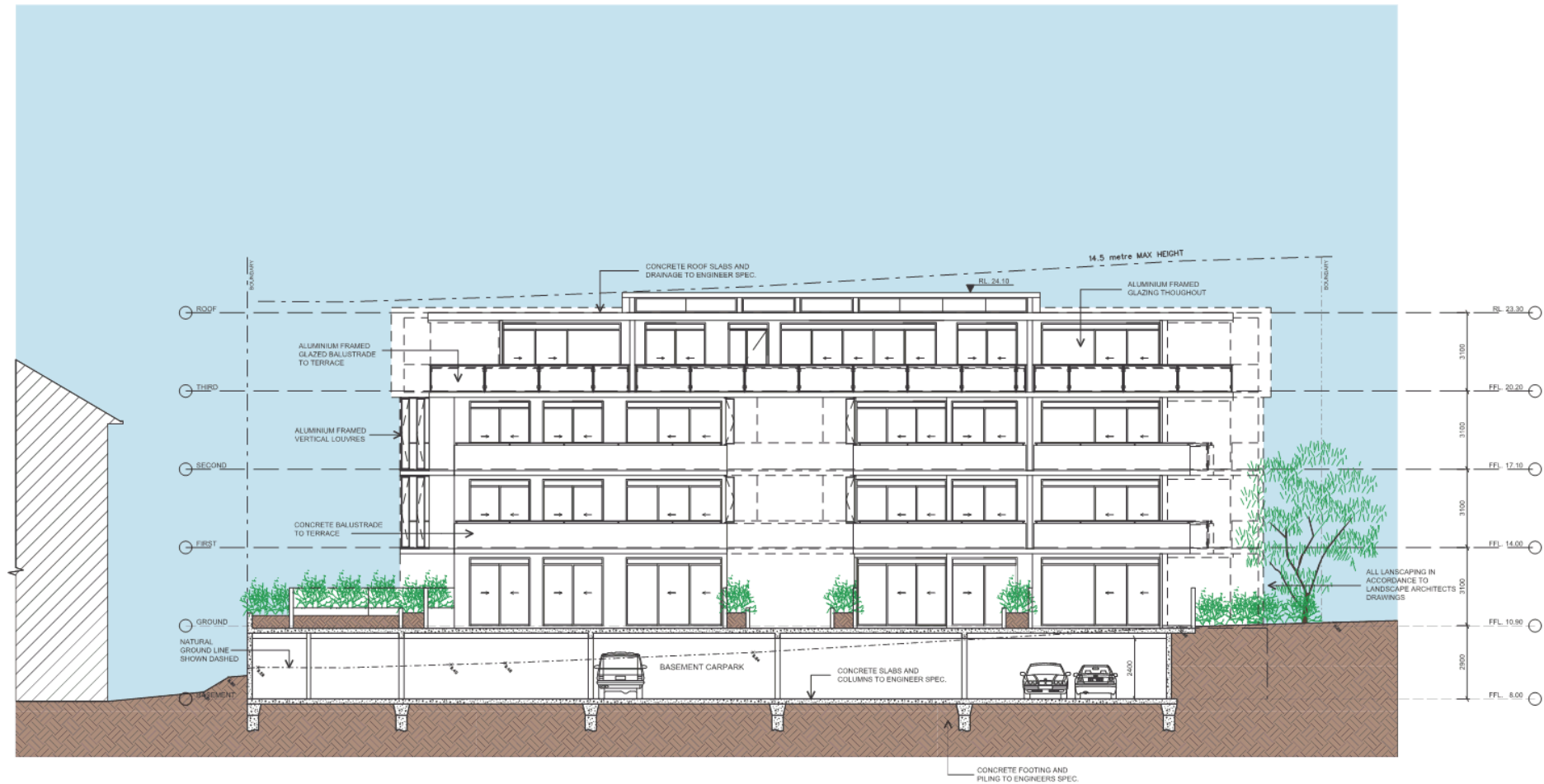
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Client
A & T Daniel Pty Ltd

Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**

Drawing Title
Basement Floor Plan

DA SUBMISSION			
Scale	Date	Drawn	Checked
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ISS No.	Drawing No.	Issue	
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Design File Ref: ArchiActive/376 - 378 Rocky Point Rd. Sans Souci DA 2018			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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North Elevation

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Issue	Date	Description	By	Issue	Date	Description	By
B	06.12.18	Changes in accordance to Council comments	SS				

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 AUSTRALIA PTY LTD

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 Web: www.cmtarchitects.com
 ACN: 161 791 715

Client
A & T Daniel Pty Ltd

Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**

Drawing Title
North Elevation

DA SUBMISSION

Scale	Date	Drawn	Checked
1:100 @ A1 1:200 @ A3	10.07.2018	SS	CT
Job No.	Drawing No.	Issue	
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Design File Ref: ArchActive/376 - 378 Rocky Point Rd. Sans Souci DA 2018			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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REVISIONS	
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47	Issue for Council
48	Issue for Council
49	Issue for Council
50	Issue for Council

East Elevation

West Elevation

Notes

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B	06.12.18	Changes in accordance to Council comments	SS				

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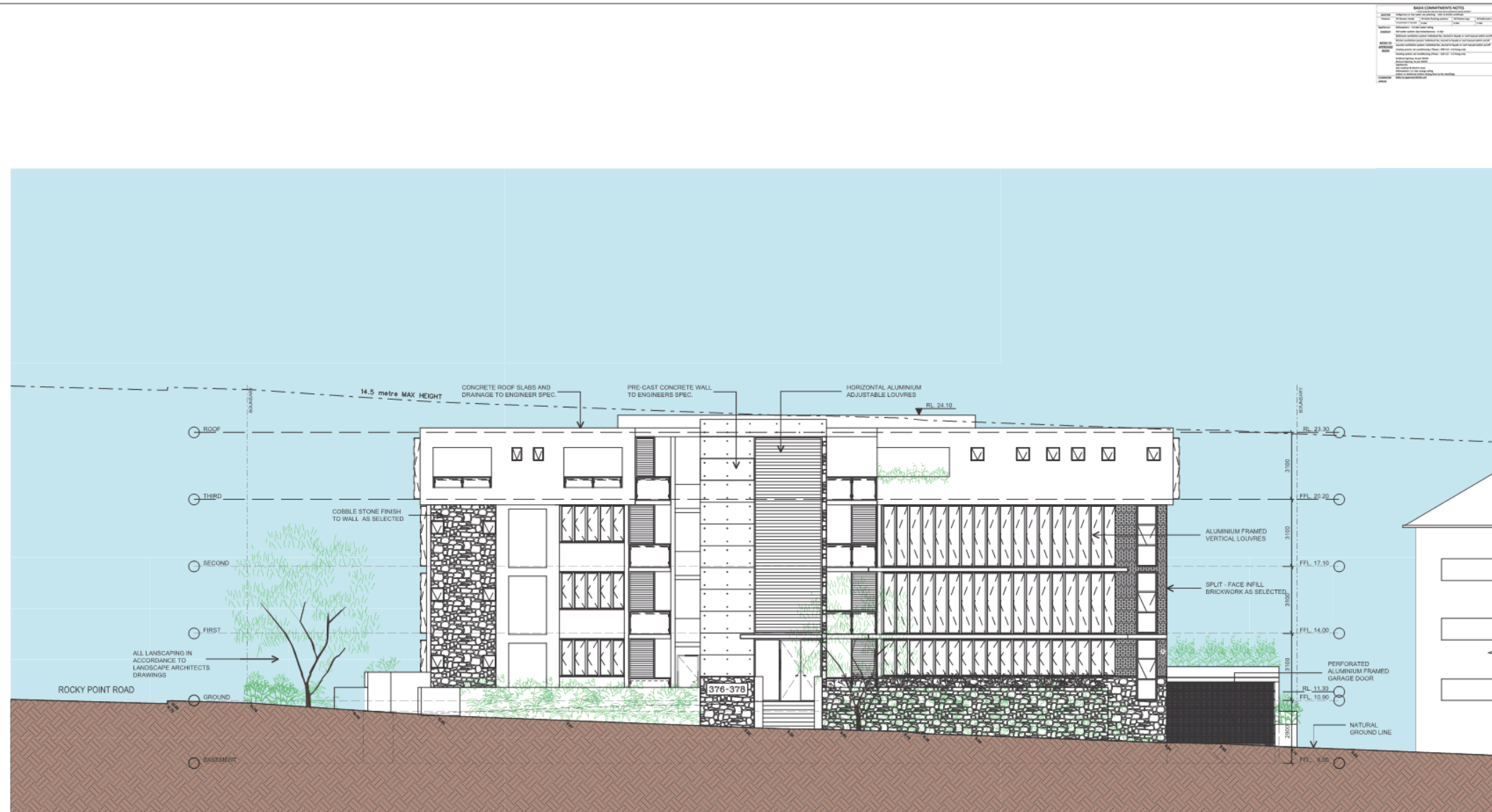
Client
A & T Daniel Pty Ltd

Project
**Residential Development
376 - 378 Rocky Point Rd.
Sans Souci NSW 2219**

Drawing Title
East & West Elevations

DA SUBMISSION

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Job No.	Drawing No. DA 4.02		Issue B
Design File Ref: ArchActive/376 - 378 Rocky Point Rd. Sans SouciDA 2018			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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South Elevation

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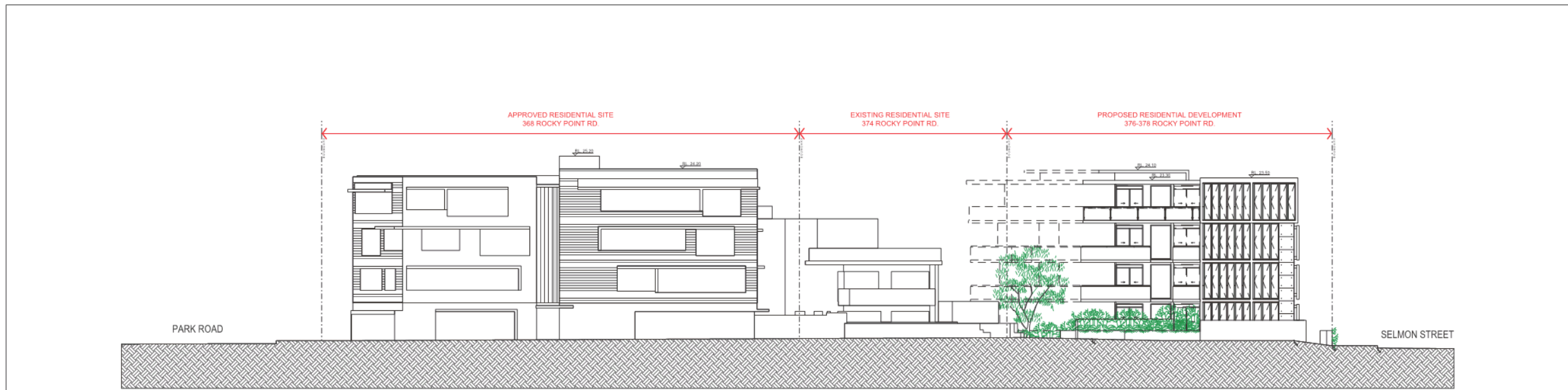
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B	06.12.18	Changes in accordance to Council comments	SS				

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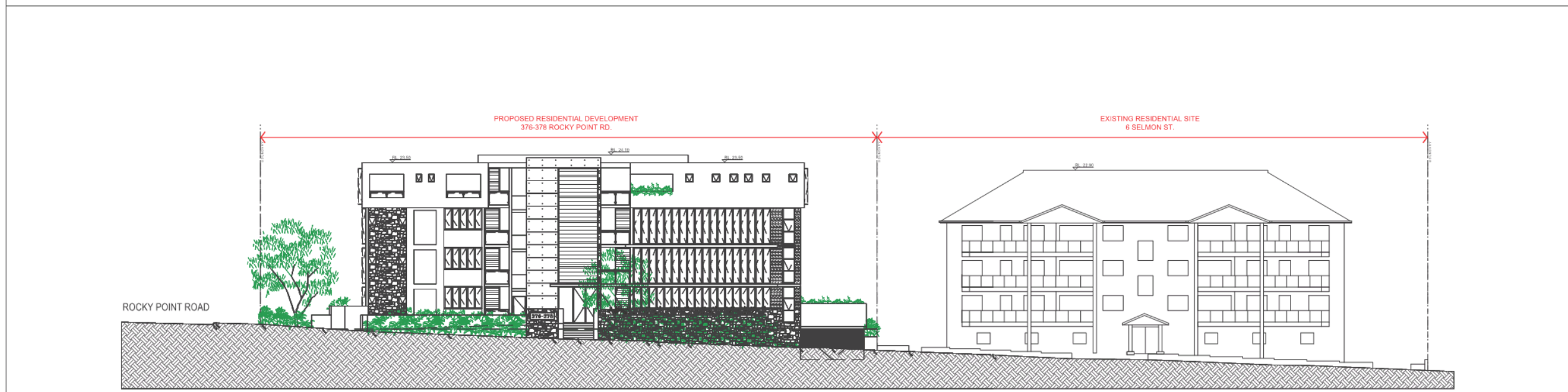
Client
A & T Daniel Pty Ltd
 Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**
 Drawing Title
South Elevation

DA SUBMISSION

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Design File Ref: ArchActive/376 - 378 Rocky Point Rd. Sans SouciDA 2018			
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Rocky Point Rd. Elevation



Selmon St. Elevation

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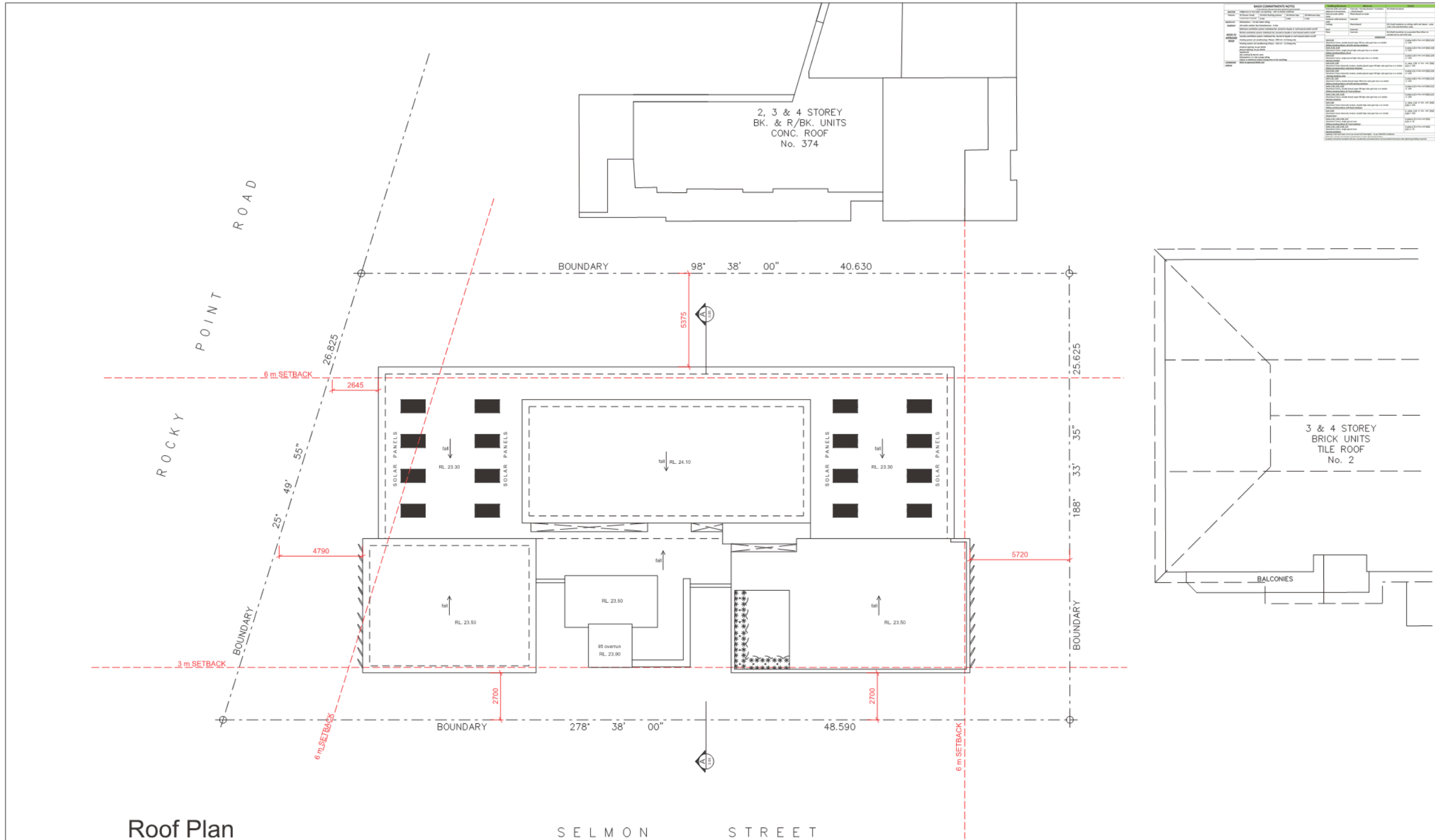
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Client
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Project
 Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219
Drawing Title
 Streetscape Elevations

DA SUBMISSION

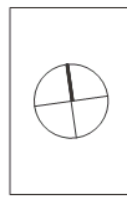
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Design File Ref: Arch/Active/376 - 378 Rocky Point Rd. Sans Souci DA 2018				
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REVISIONS	
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100	Issue for Council

Roof Plan

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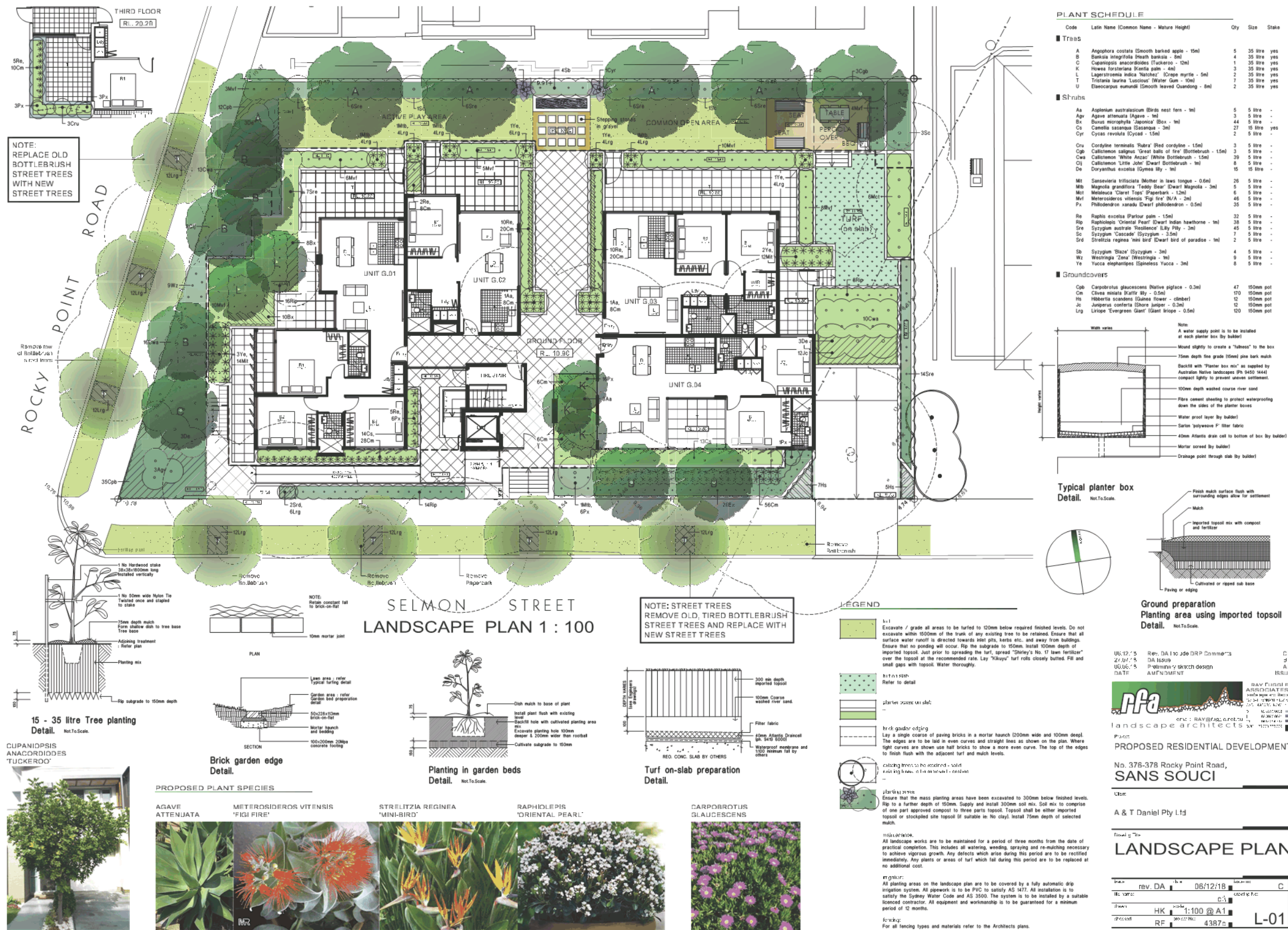
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B	06.12.18	Changes in accordance to Council comments	SS				

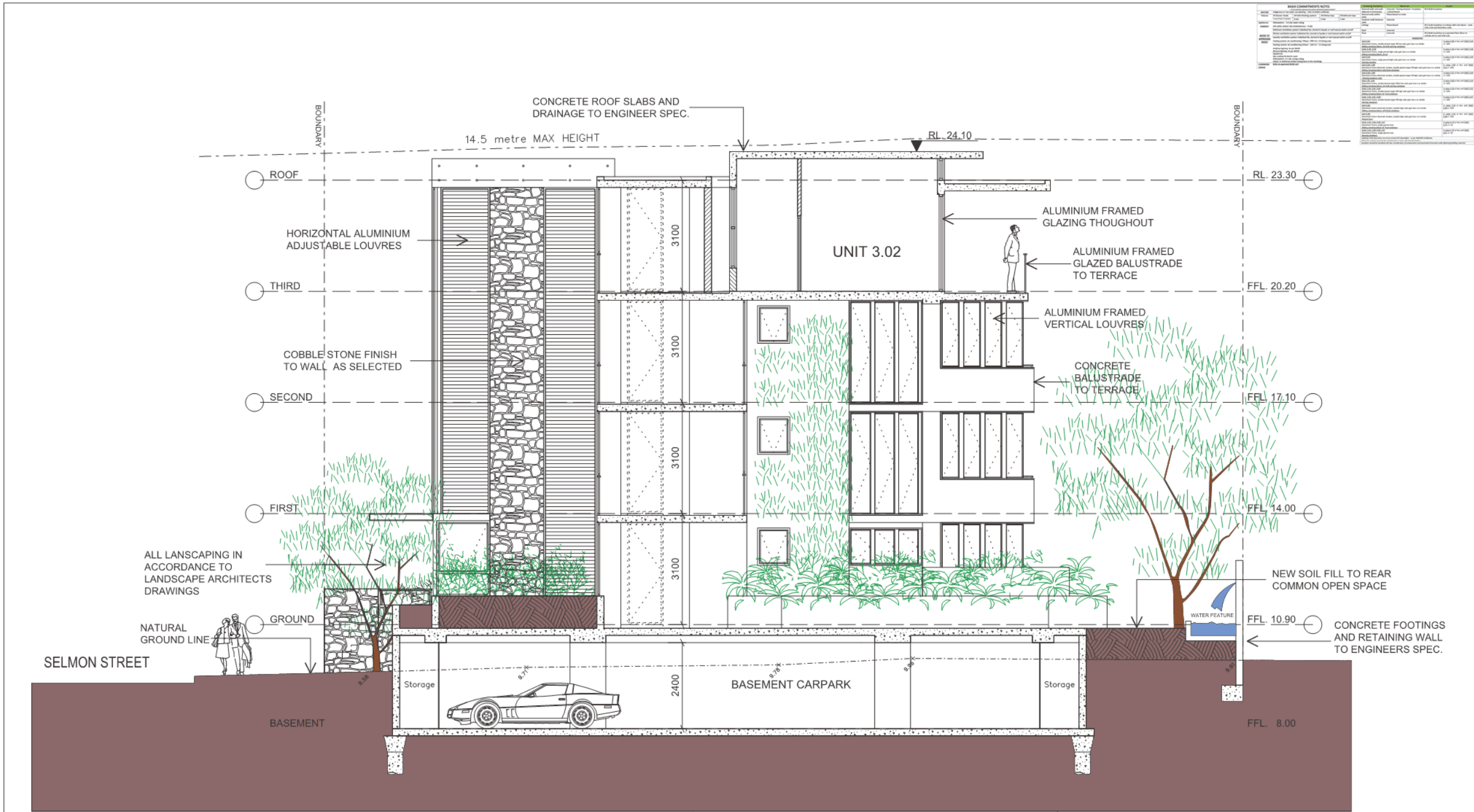
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 Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**
 Drawing Title
Roof Plan

DA SUBMISSION

Scale 1:100 @ A1 1:200 @ A3	Date 10.07.2018	Drawn SS	Checked CT
Job No.	Drawing No. DA 2.04	Issue B	
Design File Ref: ArchActive/376 - 378 Rocky Point Rd. Sans SouciDA 2018			
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Section AA

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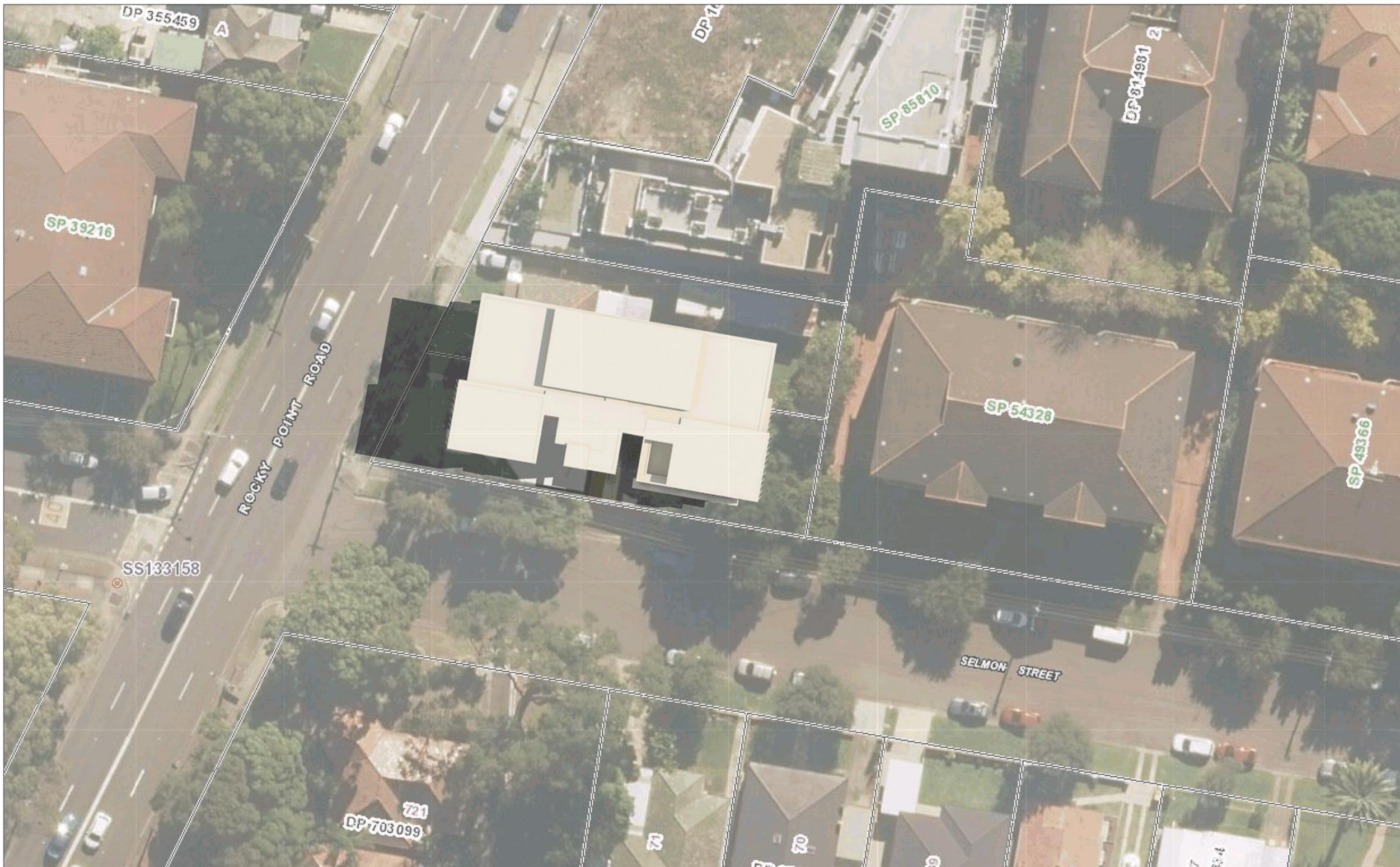
Issue	Date	Description	By	Issue	Date	Description	By

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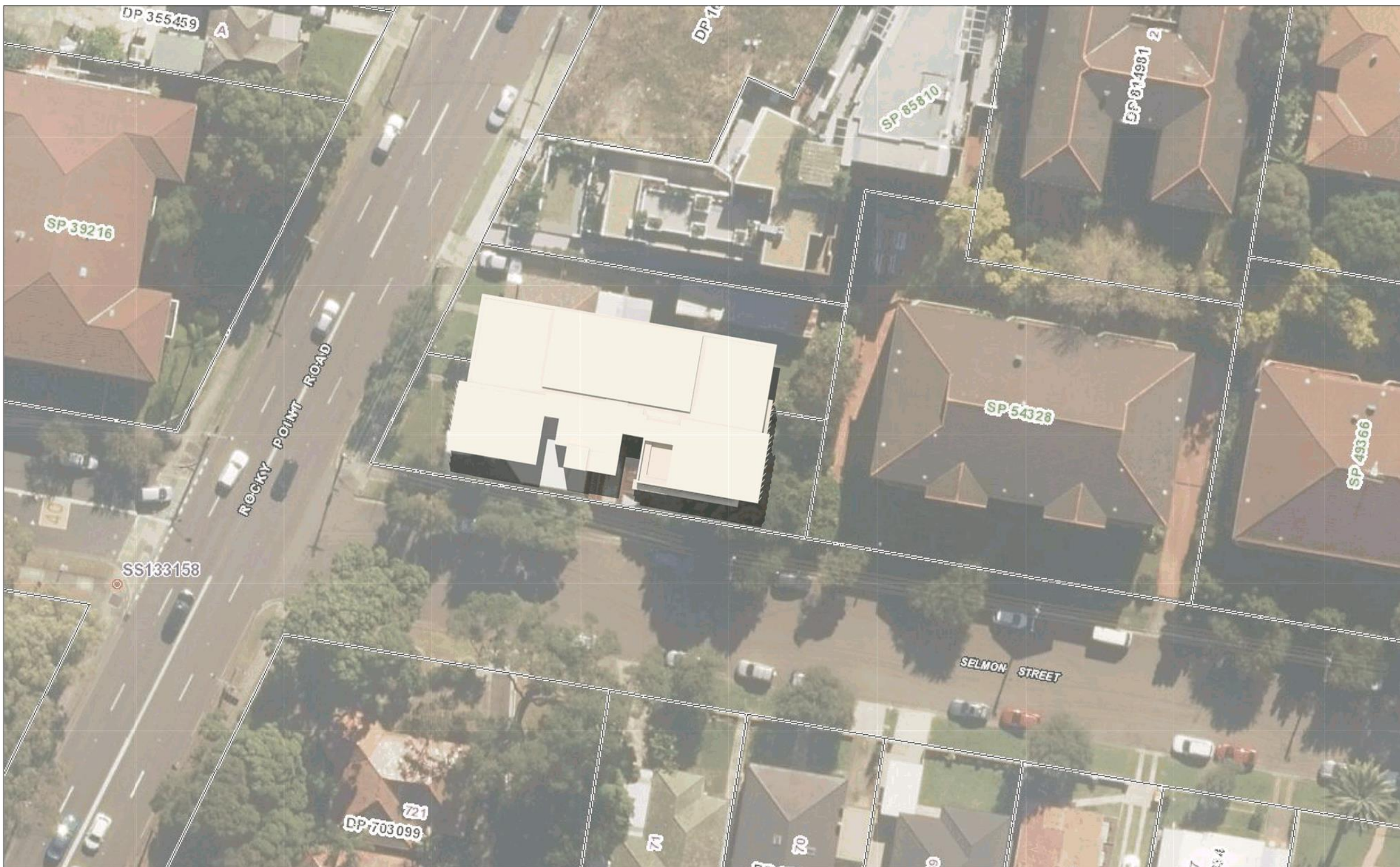
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A & T Daniel Pty Ltd
 Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**
 Drawing Title
Section AA

DA SUBMISSION

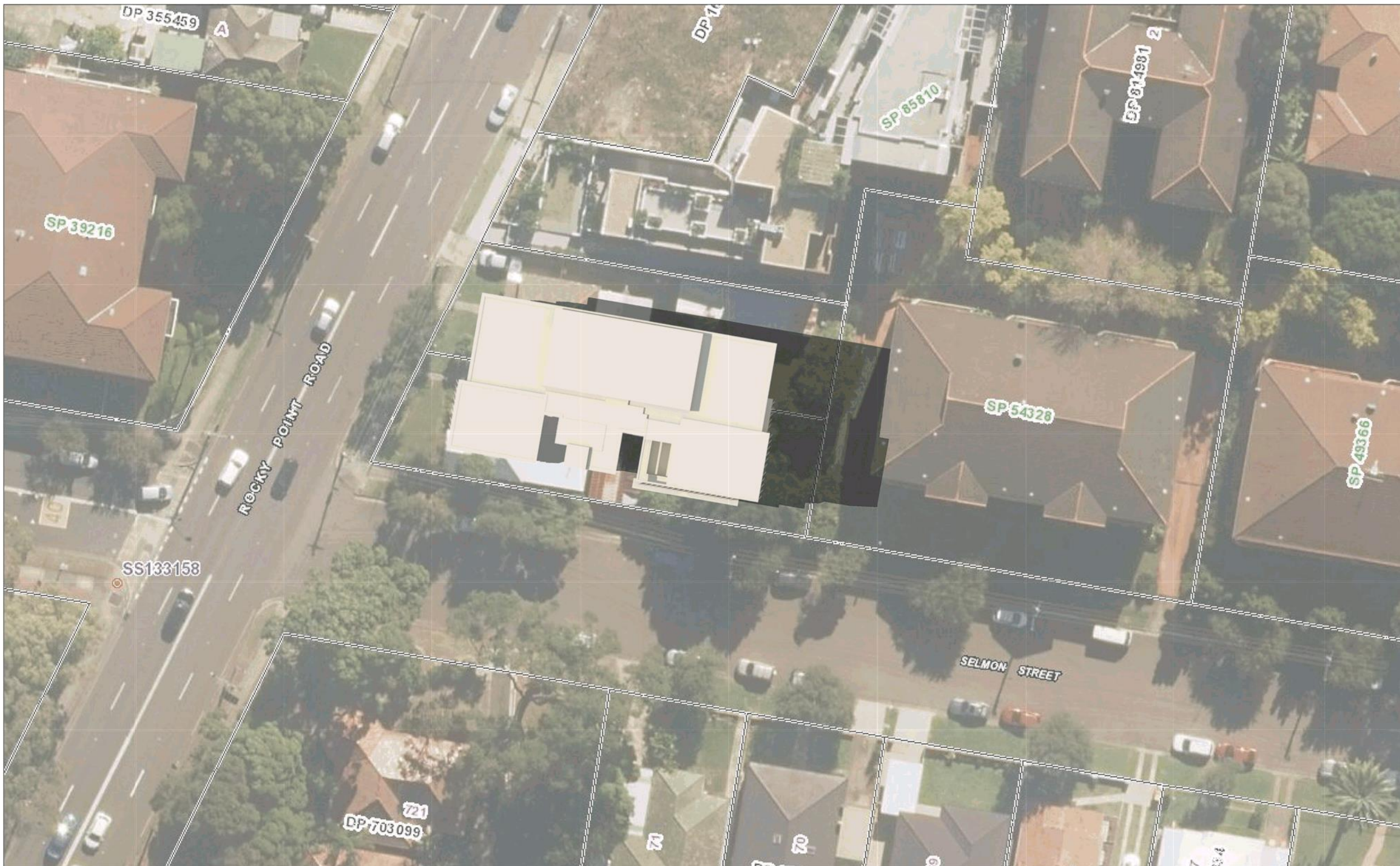
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Design File Ref: ArchActive/376 - 378 Rocky Point Rd. Sans SouciDA 2018			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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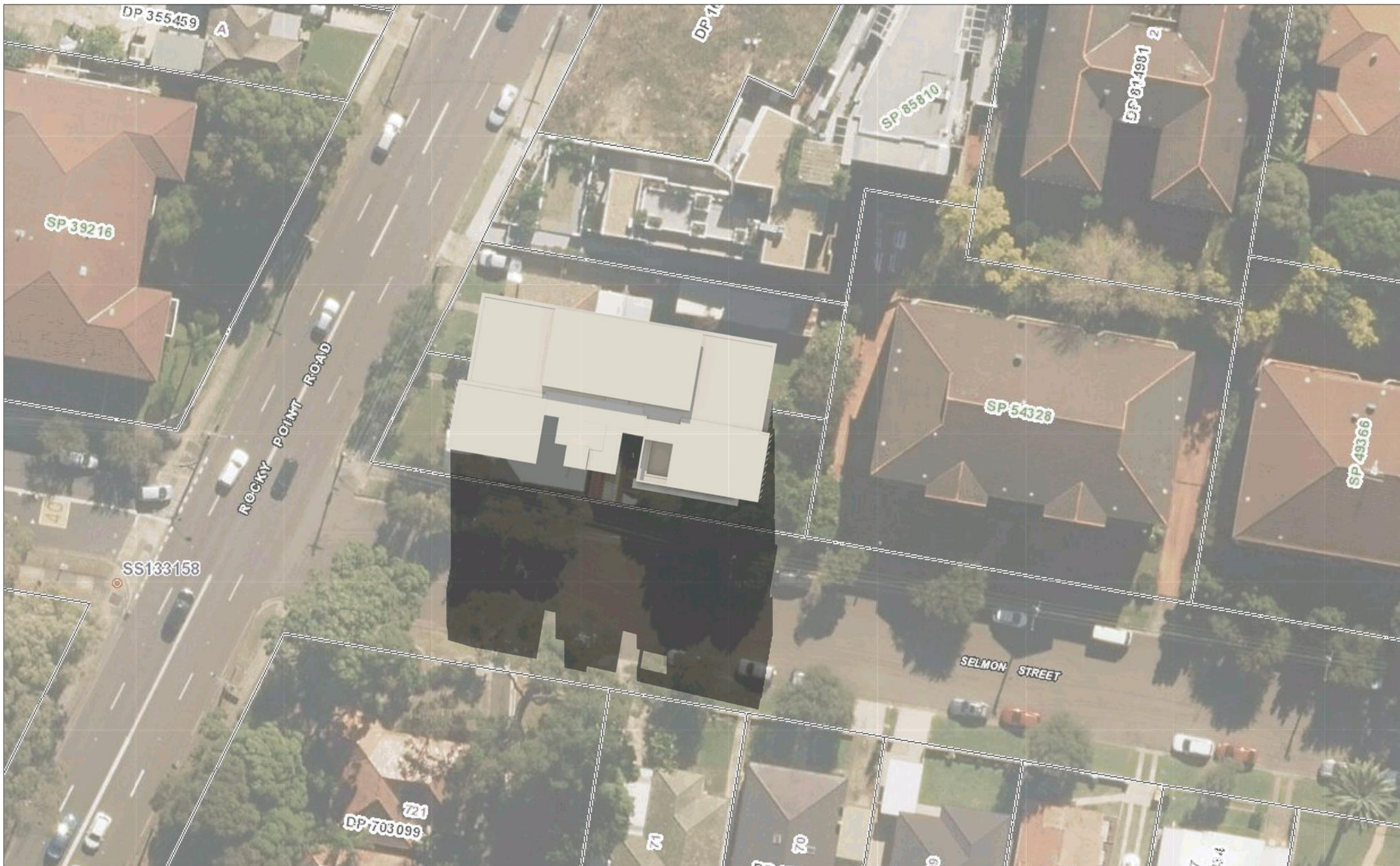
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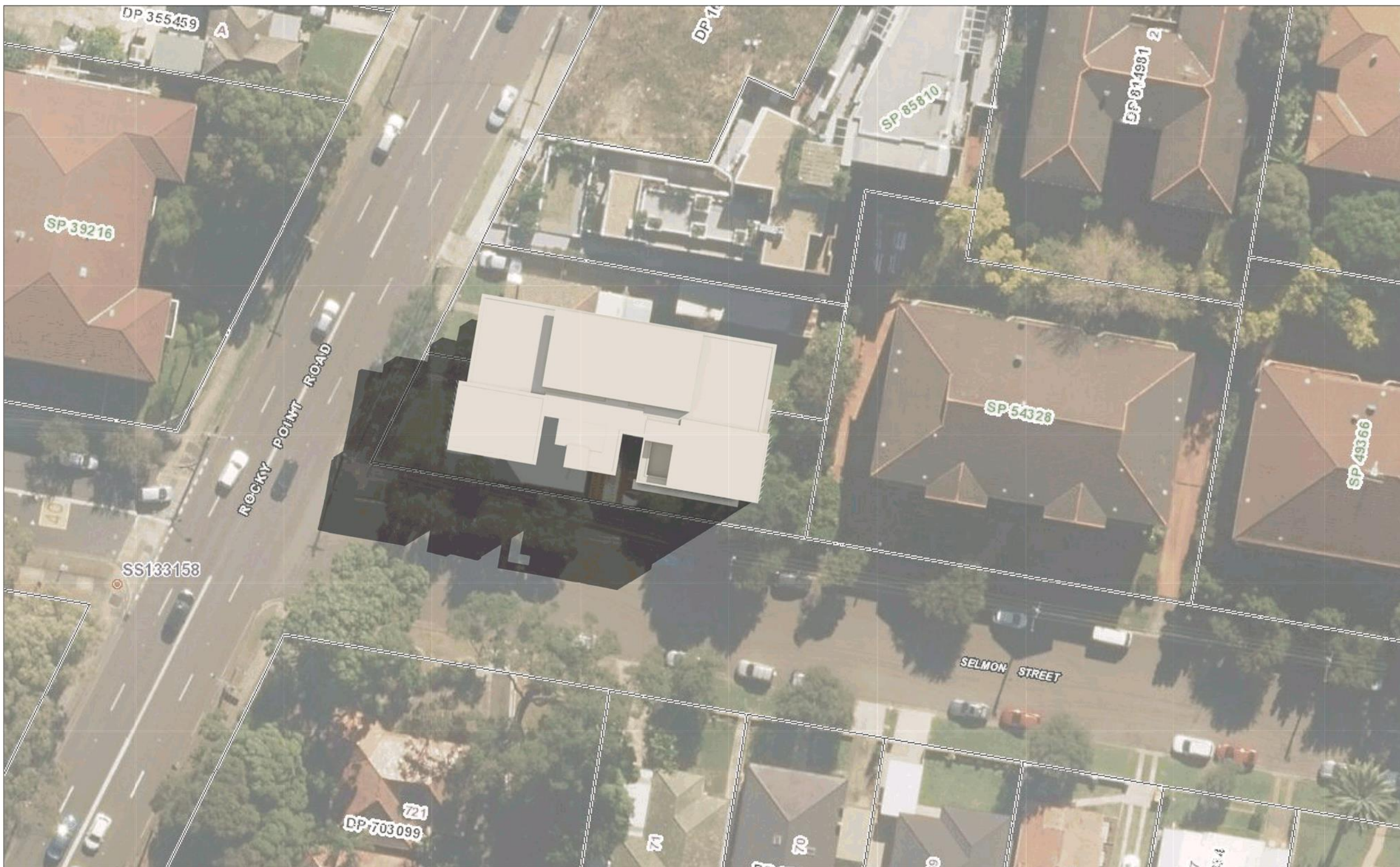
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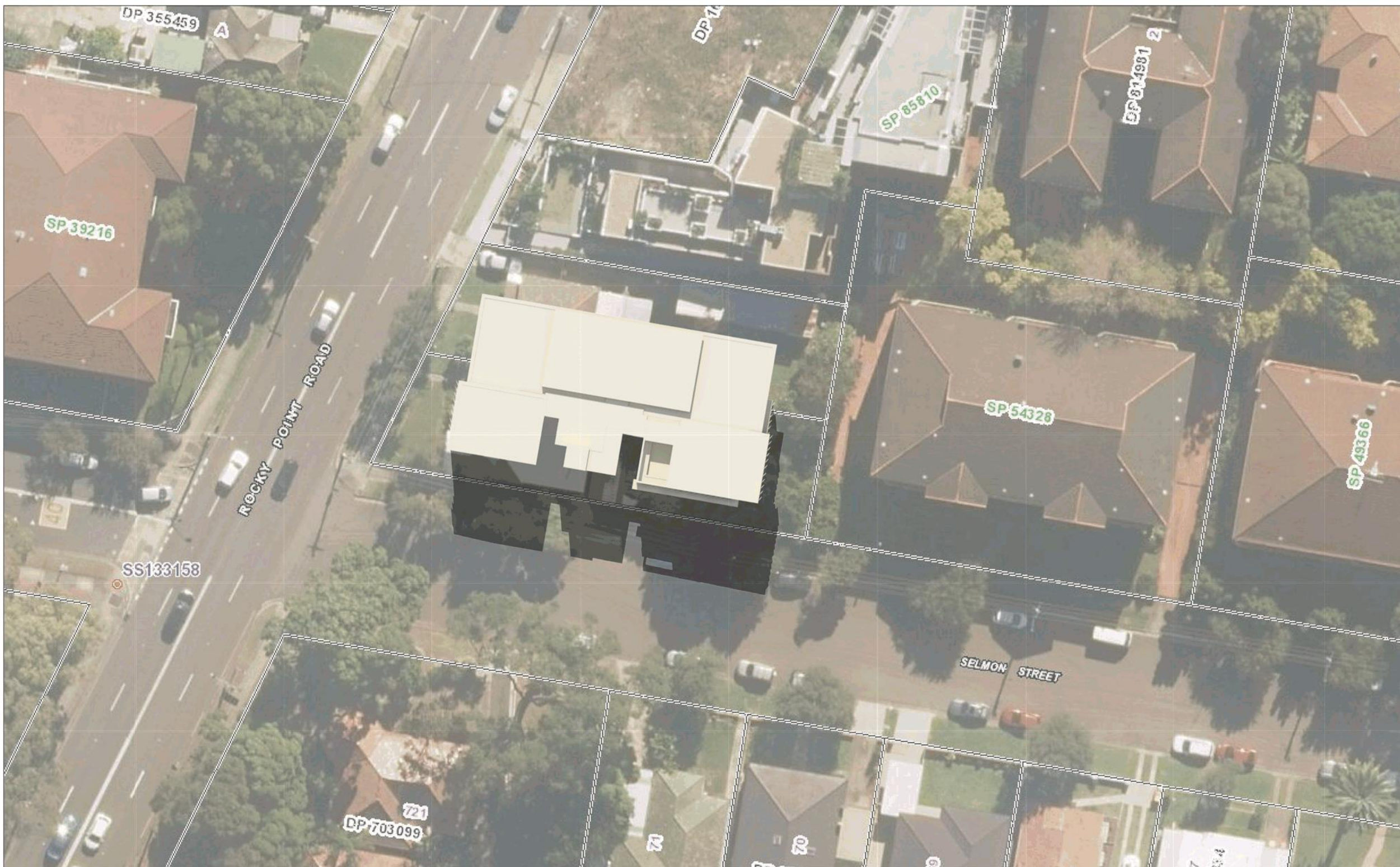
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MATERIALS & FINISHES - 376-378 Rocky Pt Rd SANS SOUCI



a **paint to concrete**
by TAUBMANS



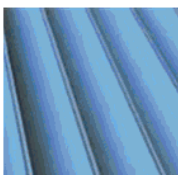
b **aluminium framed balustrades**
(clear anodised) by NU-LITE



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



d **Marine Grade Plywood**
by Plymaster



e **Vertical Louvres**
(anodised aluminium) by SCREENMASTER



f **Off Form Concrete**




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







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Client
A & T Daniel Pty Ltd

Project
**Residential Development
 376 - 378 Rocky Point Rd.
 Sans Souci NSW 2219**

Drawing Title
**Photomontage
 South East View - Selmon St.**

DA SUBMISSION			
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Bayside Local Planning Panel**12/02/2019**

Item No	6.3
Application Type	Development Application
Application No	DA-2017/190
Lodgement Date	01/12/2016
Property	DA-2017/190 - 117 Forest Road, Arncliffe
Ward	Bexley
Owner	Ms Kerry Ann Saba Mr Safwat Wadee Saba
Applicant	Ms Kerry Ann Saba Mr Safwat Wadee Saba
Proposal	Alterations to existing building and addition of two(2) dwellings with access from Towers Place
No. of Submissions	Seven(7) original proposal Nil amended proposal
Cost of Development	\$358,375.00
Report by	Michael McCabe, Director of City Futures

Officer Recommendation

1. That Development Application No. 2017/190 for alterations to the existing building and addition of two(2) dwellings with access from Towers Place at 117 Forest Road, Arncliffe be refused for the following reasons:
 - a. The proposal hinders the attainment of the objects specified in Sections 1.3(c) of the Environmental Planning and Assessment Act 1979 since the proposed development does not promote the orderly and economic use and development of the land intended for a low density residential environment.
 - b. The application is unsatisfactory in respect to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposed development does not comply with the provisions of the Rockdale Development Control Plan 2011 in respect to:-
 - i) The proposal entails the reduction of landscaped setting hence compromising the curtilage of the existing dwelling and its relationship with surrounding properties. The proposed landscaping and inclusion of carparking within the front setback is not compatible with the existing streetscape,
 - ii) The amenity of the units is unsatisfactory as seven of the units do not meet the minimum floor area and the proposed reduction to the existing communal area is to the detriment of future residents.
-

- iii) The bulk and scale is not compatible with the low density residential character of the local area and creates visual impacts.
 - c. The application is unsatisfactory in respect to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed alteration and additions to the existing "residential flat building" is contrary to the land's zoning objectives for a low density residential environment.
 - d. Having regard to the above non-compliance and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an over development of the land.
 - e. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.
2. That the objectors be advised of the Bayside Planning Panel decision.
-

Location Plan



Attachments

- 1 Supplementary Planning Assessment Report [↓](#)
- 2 Planning Assessment Report - 117 Forest Road Arncliffe [↓](#)
- 3 Elevations and Site Plan [↓](#)
- 4 Context Drawing_Landscape [↓](#)
- 5 Colour & Materials Board [↓](#)
- 6 Plan of Management Communal Area [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	DA-2017/190
Date of Receipt:	1 December 2016
Property:	117 Forest Road, ARNCLIFFE (Lot B DP 362957)
Owner(s):	Ms Kerry Ann Saba Mr Safwat Wadee Saba
Applicant(s):	Ms Kerry Ann Saba Mr Safwat Wadee Saba
Proposal:	Alterations to existing building known as 'The Gables' and addition of two (2) dwellings with access from Towers Place
Recommendation:	Refused
No. of submissions:	Seven (7) original proposal Nil amended proposal
Author:	Marta M Gonzalez-Valdes
Date of Report:	16 January 2019

Key Issues

The development application was referred to the Bayside Planning Panel meeting on 13 November 2018. The Panel resolved that:

- 1 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 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.*

The applicant submitted amended plans and additional documentation on 5 December 2018 as follows:

- 1 - Amended Architectural Plans
- 2 - Amended solar access analysis
- 3 - Amended Colour and Materials Board
- 4 - Plan of Management for proposed communal area

The amended proposal was notified from 12 December 2018 until 11 January 2019. No submissions have been received.

This report is to be read in conjunction with the report considered by the Bayside Planning Panel on 13

November 2018.

Recommendation

1. THAT Development Application No. 2017/190 for alterations and additions to the existing building at 117 Forest Road, Arncliffe be refused for the following reasons:

a) The proposal hinders the attainment of the objects specified in Sections 1.3(c) of the Environmental Planning and Assessment Act 1979 since the proposed development does not promote the orderly and economic use and development of the land intended for a low density residential environment.

b) The application is unsatisfactory in respect to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposed development does not comply with the provisions of the Rockdale Development Control Plan 2011 in respect to:-

- i) The proposal entails the reduction of landscaped setting hence compromising the curtilage of the existing dwelling and its relationship with surrounding properties. The proposed landscaping and inclusion of carparking within the front setback is not compatible with the existing streetscape,
- ii) The amenity of the units is unsatisfactory as seven of the units do not meet the minimum floor area and the proposed reduction to the existing communal area is to the detriment of future residents.
- iii) The bulk and scale is not compatible with the low density residential character of the local area and creates visual impacts.

c) The application is unsatisfactory in respect to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed alteration and additions to the existing "residential flat building" is contrary to the land's zoning objectives for a low density residential environment.

d) Having regard to the above non compliance and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an over development of the land.

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

2. THAT the objectors be advised of the Bayside Planning Panel decision.

Background

Proposal

The amended proposal retains the original internal configuration of the dwellings and building footprint. As such the total number of residential dwellings proposed remains as ten (10). Five (5) dwellings are located on the ground floor and Five (5) dwellings are located at first floor level (existing and proposed).

The main changes proposed as compared to the previous scheme presented to the Panel are:

1. Relocation of the carparking spaces within the front setback resulting in a reduction of the paved

area

2. Reduction to the private open space of Units 1 and 8 (11.8sq.m. and 15.36sq.m. respectively)
3. Addition of a communal open space area along the western boundary (30.76sq.m.)
4. Reduction of the communal circulation area in level 1 to include an entry area for Unit 2
5. Installation of a privacy screen in the front balcony to allow independent private open space for Units 2 and 6 (4.99sq.m. and 7sq.m. respectively)
6. Addition of a balcony (with associated door) to Units 4 and 7 (11.05sq.m. and 5.24sq.m. respectively)

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 previous conclusions in regard to this policy remain valid.

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

The amended proposal was not accompanied by a BASIX Certificate. An amended certificate would be required if the application was to be approved by the Panel.

State Environmental Planning Policy (Infrastructure) 2007

The amended proposal does not alter previous conclusions in regard to this SEPP.

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

The removal of trees as proposed has been approved by Council's tree management officer subject to conditions, including the retention of the street tree and the tree located towards the rear of the site.

State Environmental Planning Policy No 55—Remediation of Land

The amended proposal does not alter previous conclusions in regard to this SEPP.

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

The amended proposal includes private open space for units 2,4 and 7 and modifies the private open space area as shown in the table below in bold letters.

Existing Development

Unit Number	No. Beds	GFA (Applicant's Calculations)	GFA (Council Calculations)	GFAADG Compliance	POS	POS Compliance	Cross Ventilation	Solar > 2 hours
1	1	55 m2	52.5m2	Y	11.8 m2	Y	Y	N
2	1	35 m2	35 m2	N (-15m2)	4.99m2	NO	Y	N
3	Studio	30 m2	28.5 m2	N (-6.5m2)	28 m2	Y	NO	N
4	1	32 m2	31 m2	N (-4m2)	11.05m2	Y	Y	Y
5	1	48 m2	46.5 m2	N (-3.5m2)	26 m2	Y	Y	N
6	Studio	27 m2	23 m2	N (-7m2)	7 m2	Y	Y	N
7	Studio	16 m2	16 m2	N (-19m2)	5.24m2	NO	Y	N
8	1	35 m2	33 m2	N (-17m2)	15.36m2	Y	NO	Y

Proposed Addition(s)

Unit Number	No. Beds	GFA (Applicant's Calculations)	GFA (Council Calculations)	GFAADG Compliance	POS	POS compliance	Cross Ventilation	Solar > 2 hours
9	2	81m2	81.65m2	Y	41.1m2	Y	Y	Y
10	2	67m2	67.7m2	Y	8.68m2	NO	Y	Y

Rockdale Local Environmental Plan 20112.3 Zone objectives and Land Use Table

As sated in previous report, the proposal is prohibited in the R2 - Low Density Residential zone. The proposal does not comply with the Floor Space Ratio (33% departure) and Height of Buildings (10.9% departure) controls. The proposal relies on existing use rights.

The amended proposal does not change previous conclusions in regard to compliance with the provisions of the RLEP 2011, except as below.

6.4 Airspace operations

A response from CASA/ Sydney Airport has been received granting approval to the proposed building height of RL 60.169AHD.

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.

Part 4 General Principles for Development

The amended proposal has been assessed against the Rockdale DCP 2011 controls. Additional comments have been provided where relevant.

4.2 Streetscape and Site Context - General

The proposal has reduced the paved area at the front of the existing building by relocating the new car parking spaces (refer to below). This is an improvement to the previous proposal. However, the streetscape issues raised in the previous report are still relevant.



4.3.1 Open Space and Landscape Design - Residential Flat Buildings

The amended proposal is an improvement to the front landscaped area, however the issue previously raised regarding the removal of the landscaped corridor at the rear is still valid.

4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

All apartments are now provided with private open space. Two apartments do not comply with the minimum area recommended by the Apartment Design Code (refer to table under SEPP 65).

4.3.3 Communal Open Space

A communal area of 30.76sq.m. is proposed along the western boundary.

4.4.5 Visual privacy

The proposed balcony to Unit 4 includes a privacy screen on the western side. The rear deck in Unit 1 fronting Towers Place is elevated and has potential for overlooking adjacent properties. This issue can be resolved by conditions of consent should the Panel determines the application by granting approval.

4.6 Vehicles Enter and Exit in a Forward Direction

The amended parking layout has been reviewed by Council' engineer who raised no issues.

S4.15(1)(a)(iv) - Provisions of regulations

Refer to comments in original report. Council's building surveyor has reviewed the proposed changes and recommends additional conditions of consent to ensure compliance with the Building Code of Australia.

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

The proposed communal open space is located along the western boundary. The applicant has submitted a Plan of Management (PoM) for the use of this area. The PoM limits the use of the area to 7am to 10pm and sets up other rules to protect the amenity of the neighbours. No other additional impacts are anticipated as a result of the proposed changes.

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

As previously stated, further intensification of the land is not supported.

S4.15(1)(d) - Public submissions

The amended proposal was notified in accordance with Rockdale Development Control Plan 2011 and no submissions have been received.

S4.15(1)(e) - Public interest

The amended proposal has not altered previous findings. For the reasons stated in the original report, the proposal is not in the public interest.

S7.11 Contribution towards provision or improvement of amenities or services

The proposal creates a demand for public infrastructure and facilities and as such a contribution is to be levied in accordance with Rockdale S94 Contribution Plan 2004. The total contribution amount has been calculated as \$36,637.62.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/190
Date of Receipt:	1 December 2016
Property:	117 Forest Road, ARNCLIFFE (Lot B DP 362957)
Owner(s):	Ms Kerry Ann Saba Mr Safwat Wadee Saba
Applicant(s):	Ms Kerry Ann Saba Mr Safwat Wadee Saba
Proposal:	Alterations to existing building and addition of two (2) dwellings with access from Towers Place
Recommendation:	Refused
No. of submissions:	Seven (7)
Author:	Marta M Gonzalez-Valdes
Date of Report:	31 October 2018

Key Issues

The development application seeks consent for some minor alterations to the existing building and the addition of two new dwellings at the rear. The site is located on the corner of Forest Road and Towers Place. The site is zoned R2 - Low Density Residential Development. The development application has been characterised by the applicant as alterations and additions to an existing residential flat building. Residential flat buildings are prohibited in the R2 zone. As such the applicant has submitted a case to argue that the site benefits from existing use rights. The applicant's claim has been considered within the parameters of Division 4.11 - Existing uses of the Environmental Planning and Assessment Act, 1979 and the existing use rights provisions under Part 5 of the Environmental Planning and Assessment Regulation 2000.

The proposal does not comply with the floor space ratio (FSR) and building height controls applying to the site (0.5:1 FSR and 8.5m building height). The proposed FSR is 0.63:1 and the proposed building height is 9.3m. As established by case law, the strict application of development standards in environmental planning instruments such as floor space ratio and building height could not be used as bases for refusal as they would derogate the applicant's existing use rights benefits. On this basis the applicant has not submitted a Cl4.6 justification to the variation to the development standards and the assessment has been carried out on merit. On merit the proposal is an over development with excessive bulk and scale.

The existing building is a 'low rental residential building' when assessed against the parameters of SEPP (Affordable rental Housing) 2009. The building has been subject to improvements since 2006, including the removal of shared facilities such as bathrooms. These renovations have been carried out

without development consent. Despite those improvements, the applicant has demonstrated that the current rental values of the units are below the median rental price for Rockdale LGA in the 24 months prior to lodgement of the development application. The proposed modifications to the current building as part of this application are not considered to result in significant improvements and/or changes to current rental prices and as such the existing building will be retained as a 'low rental residential building' and will not generate a loss of affordable rental housing in the area.

Recent case law (Saffioti v Kiama Municipal [2018] NSWLEC 1426 has found that DCP provisions are relevant to the assessment of an application relying on existing use rights 'as a development control plan (DCP) is not an environmental planning instrument for the purposes of the EP&A Act, under s 1.4 of the Act, and so the provisions of a DCP cannot derogate in the manner prescribed in s 4.67(3)' (at 86). Though it is noted this is a Commissioner decision.

The proposal fails when assessed against the provisions of the DCP in regard to setbacks, bulk and scale, streetscape, internal amenity, site coverage and car parking as stated in this report. Seven units do not meet the minimum unit size representing 70% of the development. One of the existing studio units is significantly undersized (16sq.m.) when compared with current standards. Three of the units do not have private open space at all. Rather than creating better amenity for the residents by utilising the rear of the property for parking and/or private or communal space, the proposal involves further intensification of the site creating additional bulk and scale and reducing the landscape setting of the building. The addition has been designed as an ad-hoc wing to the existing building with no internal nor external connection within the site. Further the proposed addition reduces the level of amenity of existing Units 3 and 8 by blocking windows and doors. The proposal is not consistent with the objectives of the DCP.

The applicant has provided significant documentation to demonstrate existing use rights. Whilst it is possible that the property enjoys existing use rights, the issues raised are highly complex. It is not considered that the applicant has discharged the required onus at this stage and in any event, given that the proposal is not supported on its merits it is not considered necessary to conclusively resolve the existing use rights issues at this time. If existing use rights were ultimately accepted, any non conforming use would need to be of a scale and intensity that is appropriate and can be maintained in perpetuity. Based on this and the objections received from neighbours, approval of the development application is not in the public interest.

Recommendation

1. THAT Development Application No. 2017/190 for alterations and additions to the existing building at 117 Forest Road, Arncliffe be refused for the following reasons:

- a) The proposal hinders the attainment of the objects specified in Sections 1.3(c) of the Environmental Planning and Assessment Act 1979 since the proposed development does not promote the orderly and economic use and development of the land intended for a low density residential environment.
- b) The application is unsatisfactory in respect to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposed development does not comply with the provisions of the Rockdale Development Control Plan 2011 in respect to:-
 - i) The proposal entails the reduction of landscaped setting hence compromising the curtilage of the existing dwelling and its relationship with surrounding properties. The proposed landscaping and

inclusion of carparking within the front setback is not compatible with the existing streetscape,
ii) The internal amenity of the units is unsatisfactory as seven of the units do not meet the minimum area and three units do not have a private open space. The proposed development does not alleviate these issues. Instead, the proposal will further reduce the open space area, which could otherwise be utilised for the benefit of the residents.

iii) The bulk and scale is not compatible with the low density residential character of the local area and creates visual impacts.

c) The application is unsatisfactory in respect to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed alteration and additions to the existing "residential flat building" is contrary to the land's zoning objectives for a low density residential environment.

d) Having regard to the above non compliance and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an over development of the land.

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

2. THAT the objectors be advised of the Bayside Planning Panel decision.

Background

History

- In the 1910's, a two (2) storey "house" was erected on the subject site and is known as "The Gables". It is noted that there is no record in Council's archives for the actual construction of the dwelling nor any subsequent formal approval for any internal alterations relating this property.
- On 1 December 2016, Development Application No. 2017/190 was lodged for the demolition of the existing outbuildings, alterations and additions to an existing "residential flat building" and Strata subdivision (as described in the submitted Statement of Environmental Effects). The applicant included a Legal Advice relating to the existing use rights claim. This application is the subject of this report.
- On 11 April, 2017, a site inspection was organised with the property owners to view the interiors of the existing premises and its surroundings. The inspection was carried out so as to have a better understanding of the intended works.
- On 27 October 2017, Council received advice from its solicitors.
- On 8 December 2017, Council reached the applicant to advise the proposal faces a number of fundamental planning concerns as follows:-

a. Existing use rights.- Whilst the information provided may conclude that the land enjoys existing use rights for the purposes of a residential flat building, potential outstanding issues are raised relating to the impact upon any potential of a use for the purposes of a boarding

house. In this respect, the applicant was to carefully consider the undertaken public objections,

- b. Strata Subdivision. - The inability to Strata subdivide the site due to site's constraints,
- c. Bulk and scale of the development,
- d. Front and rear setbacks,
- e. Tree preservation and landscaping setting,
- f. Inadequate location of the waste collection area,
- g. Adequate and sufficient car parking provision,
- h. Visual amenity and privacy to the neighbouring properties located immediately to the north and western quadrants of the development site,
- i. Aircraft noise and acoustic attenuation noise nor provided,
- j. Storm water drainage matters, and
- k. The loss of "Low Rental Dwellings" as per the relevant provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 as a result of the subdivision of the development site.

- On 24 January 2018, Council officers met the applicant(s) to discuss the letter of concerns.
- On 22 March 2018, the applicant submitted -via e-mail- draft amended documentation for Council's perusal as agreed at the previous meeting. At the time, the applicant advised that Strata subdivision is no longer proposed.
- On 25 July 2018, a further meeting was held with the applicant to discuss the plans above and outstanding documentation.
- On 17 August 2018, the applicant submitted additional information to support the existing use rights claim and additional plans.

Proposal

The application seeks approval for the works described as follows:-

- Demolition of the existing roller door (accessed off Towers Place) and part of the rendered wall to accommodate gates to individual courtyards,
- Demolition of an existing shed and awning currently positioned at the north of the development site,
- Retention of the existing building containing 8 self contained units'
- Erection of a two (2) storey addition at the northern side of the existing building containing two (2) dwellings, one - two (2) bedroom unit at the ground floor and one - two (2) bedroom unit with attic at the upper level. Independent pedestrian access is to be provided via Torrens Place,
- Provision of three (3) car parking spaces at the front of the development site (Forest Road side) and one (1) space at the north-eastern corner off Towers Place,
- Relocation of the existing car parking space at the front setback,
- Associated landscaping works to enable the proposed development,
- Removal of four (4) existing trees, two (2) at the front setback and two (2) at the northern quadrant (rear) of the development site,
- Stormwater works.

The total number of residential dwellings proposed is ten (10). Five (5) dwellings are located on the ground floor and Five (5) dwellings are located at first floor level (existing and proposed). There does not seem to be any physical connection between the the existing building and the proposed units.

The proposed addition represents 147.72 sq.m. of additional gross floor area within the site.



Figure 1 - Existing rear elevation. The ground floor windows will be filled in, the roof over the courtyard area will be removed and the new building attached at this point.

Site location and context

The site is legally described as Lot B in DP 362957 being (No. 117) Forest Road in Arncliffe. The site has an area of 730.8 square metres (as per the submitted Survey Plan) and is relatively a regular shaped lot located at the north-western corner of Forest Road and Towers Place. The development site features dual street frontage being to Forest Road (whose dimension is 8.625 metres) and a secondary frontage to Towers Place (whose dimension is 38.38 metres). The site is relatively flat in topography as it is located at the top of the geographical crest of the Road.

The site contains a part single storey/part two (2) storey building, which the applicant(s) describe as a "residential flat building". The site has been historically known as "The Gables". The building currently contains eight (8) "residential units", which have been adapted and occupied for such purposes for a number of years now. It is noted that Council has no record that such conversions and/or whether occupations were ever carried out legitimately.

The front setback to Forest Road is characterised by landscaping and a paved area accommodating one car space. There is an existing driveway on the Towers Place frontage providing access to a roller door. A review of historical aerial photos shows that the roller door provided access to a detached garage which no longer exists on the site. Below is an aerial view of the site in 2005.



Figure 2 - Aerial view of the property in 2005

The site is located within a R2 – Low Density Residential zone hence the site is surrounded by low scale residential development sited on relatively large lots.

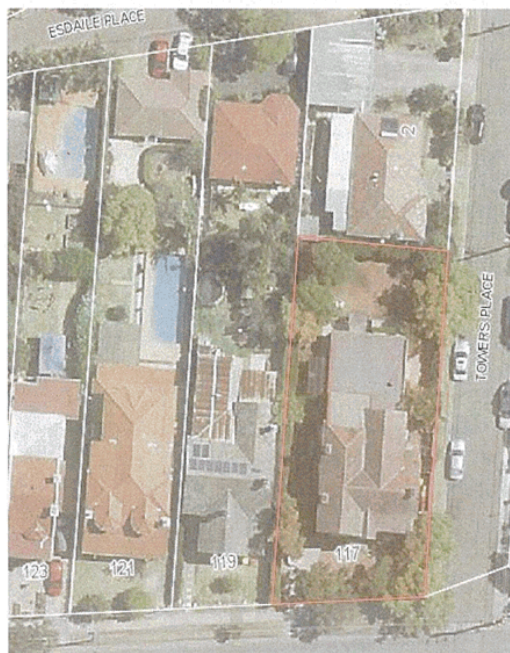


Figure 3 - Subject site and immediate surrounding properties

Abutting the south of the site is Forest Road, which is a four (4) lane classified road as per the Schedule of Classified Roads and Unclassified Regional Roads of the NSW Transport Roads and Maritime Services.

The site is located approximately 691 metres south-west of the local commercial town centre and the

Amcliffe Railway Station, where taxi ranks and buses convey passengers to Rockdale and Sydney CBD.

The site is not listed as heritage item nor is located in a heritage conservation area. However, the site features an inventory sheet and may be of heritage interest. The property is noted as worthy of preservation due to its historical aesthetic qualities. The sheet describes the property as "a half single two (2) storey Federation house with very tall chimneys. Needs some minor maintenance."

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S4.15 (1) - Matters for Consideration - General

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Affordable Rental Housing) 2009

Part 3 of the the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (AHSEPP) seeks to retain or mitigate the loss of existing affordable rental housing. It establishes an assessment process for proposals in the greater Sydney metropolitan region (including the Illawarra and Hunter regions) that impact on existing residential flat buildings and boarding houses, to mitigate the potential impact on existing affordable rental housing.

Clause 47(2) provides that a very low income household, low income household or moderate income household is taken to include a household that occupies a low rental dwelling or a boarding room in a boarding house. This means that such accommodation is "affordable housing" as defined in the Act and, in accordance with the NSW Government guideline "Affordable Rental Housing SEPP - Guidelines for Retention of Existing Affordable Rental Housing - October 2009" (the Guidelines), it follows that its loss will reduce the availability of affordable housing for the purposes of s94F(1)(a) of the Act.

Clause 48 provides that this part applies to all land within the Sydney Region, which includes Bayside Council.

Clause 49 states that Part 3 only applies to buildings that were low-rental residential buildings at 28 January 2000. The applicant has advised that they were unable to obtain records for all apartments dating back to 2000, however based on the information that they were able to obtain for between 2001 and 2005, they confirm that the rental price for the one bedroom units within the building was less than the median rental price for a one bedroom unit in the Rockdale LGA according to the *Rent and Sales Report (2000)* which identified the median rental for a one-bedroom unit to be \$170 / week. They noted that there is no median available for studio apartments in this report. However, based on the information available they consider that the building was a low-rental residential building as at 28 January 2000.

A detailed assessment of Part 3 has been provided by the applicant in the submitted Statement of Environmental Effects prepared by Genevieve Slattery (dated 18 November 2016). The assessment

was based on the proposed strata subdivision of the building. However this aspect of the application has been withdrawn and is no longer applicable. However some aspects of the assessment, in particular the rental data, is relevant as stated below.

An assessment of Part 3 has been undertaken in accordance with the NSW Government guideline "*Affordable Rental Housing SEPP - Guidelines for Retention of Existing Affordable Rental Housing - October 2009*" (the Guidelines).

Clause 50(1) - In accordance with clause 50(1)(b) of the SEPP, a person must not alter or add to the structure or fabric of the inside or outside of the building to which Part 3 applies without obtaining development consent.

The Guidelines provide more specific criteria to establish whether Part 3 applies when alterations and additions to a building are involved. Specifically the Guidelines state that Part 3 applies when the alterations and additions to a building 'result in the structure or fabric being upgraded to a higher standard, such as replacing shared kitchen or bathroom facilities with individual facilities, providing additional on-site carparking, or to comprehensive refurbishment of the building intended to raise the standard of accommodation and enable an increase in rents or tariffs. Part 3 does not apply to routine maintenance activities needed to prevent the deterioration of the building and/or to ensure the health and safety of residents or maintain a reasonable standard of accommodation. Such work would be consistent with the aim of the SEPP to retain low rental accommodation. Examples of routine maintenance include periodic repairs, painting, renewal of floor coverings, replacement of light fittings, re-wiring or work carried out to comply with a fire safety order'.

The proposed changes to the existing building under this application are considered to be of a minor scale involving the closure of two north facing windows and a door, improvements to landscaping and additional carparking. However, there is evidence from letters by long term residents, from visual observation when undertaking a site visit as part of the assessment of the application, and from statements by the owner of the property; that since the property was sold in 2006; the building has been significantly renovated, including the removal of share facilities and other works to improve the amenity of residents and to re-instate some original architectural elements to the fabric of the building.

A 'low-rental residential building' includes a building with one or more 'low-rental units'. The applicant has confirmed that at the time of lodgement, all of the one (1) bedroom units were let at a price that did not exceed the median rental at any time within the 24 month period prior to lodgement of the development application as detailed in the relevant *NSW Rent and Sales Report* published by Housing NSW for a dwelling of the same type within the Rockdale LGA. Therefore, the building is considered to be a 'low rental residential building'. The applicant notes again that there is no median for studio apartments. Based on this it can be established that despite the alterations undertaken to the building since 2006, the building is still considered to be a 'low rental building' and Part 3 of the SEPP does not apply.

Clause 50(2) - The Guidelines recommends that when there is concern that there may be some impacts on the local housing market, the criteria in Part 3 can be considered when assessing the social and economic impacts of the development under section 4.55(1)(b) of the Act.

The applicant has addressed the requirements of this clause and an assessment is undertaken in the table below:

Guidelines	Applicant's Consideration	Assessment
<p>(a) whether there is likely to be a reduction in affordable housing on the land to which the application relates.</p>	<p>The applicant advises that none of the existing occupants will be required to relocate however they do not provide a full assessment of this clause. Based on their assessment of later clauses and their analysis of 2011 ABS data, they consider that a maximum of 2 existing low-rental dwellings may become owner occupied following strata subdivision.</p>	<p>Refer to Note 1 below.</p>
<p>(b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation.</p>	<p>According to the September 2016 REINSW Vacancy Rate Survey, the vacancy rate in Sydney was 1.9%. To this end, sufficient comparable accommodation is considered to be unavailable at the time of lodgement of this DA and further analysis is not required.</p>	<p>The applicant's position is agreed with. Based on the rental vacancy rate of 1.9% it is considered that insufficient comparable accommodation is available.</p>
<p>(c) whether the development is likely to cause adverse social and economic effects on the general community.</p>	<p>The applicant considers that the proposal will have minimal social and economic impacts on the general community, with respect to the provision of affordable housing and that the proposal will result in a positive social and economic effect.</p>	<p>As the proposal is still a 'low cost residential building', it is considered that the proposal is unlikely to result in adverse social and economic impacts on the community through the loss of low-cost rental housing.</p>

<p>(d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation.</p>	<p>No residents would be displaced as none of the existing tenants will be asked to vacate the existing building. The applicant does, however, agree to imposition of conditions as detailed in their SEE to assist residents should the units be sold after subdivision and the new owners wish to occupy their units.</p>	<p>Strata subdivision is no longer part of this application. As all improvements have already been carried out, there is no reason to believe the residents will be displaced.</p>
<p>(e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area.</p>	<p>The proposal would not contribute to the cumulative loss of affordable housing given that only 2 of the low-rental dwellings would become owner occupied.</p>	<p>The proposal does not involve the strata subdivision of the building. The Local Government Housing Kit on the Housing NSW website confirms that there was a 20.7% increase in rental stock for Low Incomes in the Rockdale LGA between June 2011 and December 2015. The proposal will therefore not have a significant cumulative impact on the loss of affordable housing in the LGA.</p>
<p>(f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements, etc.</p>	<p>Only minor works are proposed to the existing building, mainly involving the demolition of an existing awning.</p>	<p>Council's Building Surveyors have assessed the proposal and included recommended conditions to ensure that the building is structurally sound and in accordance with current BCA requirements (e.g. fire safety compliance, etc.).</p>

(g) whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development.	The assessment concludes that no monetary contribution is required to be paid in conjunction with the proposed development.	The payment of a monetary contribution is not considered necessary in this case as the building is still a low cost residential building following approval.
(h) In the case of a boarding house, the financial viability of the continued use of the boarding house.	N/A	N/A

Note 1 - The strata component of the application has been withdrawn. However the application involves modifications to the structure or fabric of the building. Further statements from long term residents and a visual inspection of the site indicate significant improvements have been carried out inside the building without development consent. It is noted that despite the renovations, all of the one bedroom units have been rented at a value less than the median rental price for Rockdale LGA. The units are therefore considered 'low rental dwellings'. Based on this, it is unlikely, approval of the application will result in a reduction in affordable housing.

Clause 50(3) - For the purposes of subclause (2)(b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgement of the development application, less than 3 per cent. The vacancy rate for the middle ring suburbs in Sydney was 1.9% for the March 2016 quarter and therefore insufficient comparable accommodation was available at the time of lodgement.

Clause 51 - Contributions for Affordable Housing - In accordance with Clause 51(2), where the consent authority is satisfied that the proposal will, or is likely to, reduce the availability of affordable housing within the area then a condition may be imposed under Section 94F of the EP&A Act requiring that a contribution be paid. Based on the data of unit rentals against the median rent for the Rockdale LGA, the building is still considered a 'low cost residential building' and therefore payment of a contribution is not required.

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

The State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) requires all new development applications for BASIX affected buildings to be accompanied by a BASIX Certificate to demonstrate that proposals will meet the NSW State government targets for sustainability, including water, thermal comfort and energy efficiency.

The application is accompanied by a BASIX Certificate, which indicates that the sustainability targets will be met, provided that the development is constructed in accordance with the BASIX commitments specified in the Certificate. A condition would be recommended to ensure the proposal meets the objectives of the SEPP if the proposal is to be approved.

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. Forest Road. In this regard, Clause 101 Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development maintains the existing vehicular crossing from Forest Road. A secondary vehicular access also exists at the side in Towers Place. The proposal will intensify the use of the driveway in Forest Road as it is intended to add two car parking spaces within the front setback. The proposal is not for a traffic generating development. As such, the application has been considered in respect to the SEPP and is satisfactory in this regard.

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

The proposed development is for the alterations and additions to an existing building that is located on land in or adjacent to a road corridor with an annual average daily traffic volume of 15,483 vehicles (based on the traffic volume data published on the website of the RMS). This does not exceed the required 40,000 vehicles under the SEPP or the 20,000 vehicles under the draft SEPP. Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, is not required to be considered as part of this assessment.

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

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

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

The development proposal involves the removal of trees and vegetation. One significant tree located on the western boundary towards the rear and the street tree are to be retained. Council's Tree Management Officer has recommended appropriate conditions that would be imposed in the draft Notice of Determination. Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Clause 4.1.7 of the Rockdale DCP2011.

State Environmental Planning Policy No 55—Remediation of Land

The applicant has provided the following assessment of State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55):

"SEPP 55 applies to the site, and seeks to ensure that the site is suitable for the proposed development. The site has been used for many decades for residential purposes, as have the adjoining properties. To this end, it is considered unlikely that the site would be subject to contamination and hence, is suitable for the proposed residential development".

The applicant's position is agreed with. The Council's property information system does not identify the property as being potentially contaminated, and the aerial photos from 1943 show that the property has been continuously used since that time for residential purposes. Based on the site visit and information available for the application, it is concluded that there is no evidence to show that the

property has been used for a use that may have resulted in contamination of the site. Accordingly, the consent authority being the Council can be satisfied that, in accordance with Clause 7 of SEPP 55, the land is suitable for the continued and expanded residential use.

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

The proposal relates to an existing house, whose rooms have been converted and partitioned into individual residential units throughout the years without formal consent(s) from the Council. The proposal relies on existing use rights.

Clause 4(b) of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) indicates that the Policy applies to buildings only if they are *at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking) and a building containing 4 or more dwellings*. As such the SEPP and the Apartment Design Guide (ADG) are not applicable.

As established in *Stromness Pty Limited v Woollahra Municipal Council* [2006] NSWLEC 587 at 95, 'to the extent that the SEPP contains any prescriptive requirements, these cannot be applied to derogate from the Applicant's existing use rights. Where an environmental planning instrument can inform the merit assessment to be undertaken under s 79C, then an instrument such as SEPP 65 does apply to assist in the merit assessment of a residential flat building. While I agree that s 108(3) prevents the application of SEPP 65 as a basis for refusing an application relying on existing use rights, its provisions can guide a merit assessment as it is raising matters that should otherwise be considered on a merit assessment of a residential flat building under s 79C no matter where it is located.'

As such a general consideration has been given to a number of the objectives and recommendations contained in the SEPP 65's Apartment Design Guide (ADG) to assist with understanding whether an adequate level of amenity would be achieved to future occupants of the development. The key matters from the ADG are provided in the table below:-

Existing Development

Unit Number	No. Beds	GFA (Applicant's Calculations)	GFA (Council Calculations)	GFA ADG Compliance	POS	POS Compliance	Cross Ventilation	Solar > 2 hours
1	1	55 m ²	52.5m2	Y	47 m ²	Y	Y	N
2	1	35 m ²	35 m2	N (-15m ²)	Nil	NO	Y	N
3	Studio	30 m ²	28.5 m2	N (-6.5m ²)	28 m ²	Y	NO	N
4	1	32 m ²	31 m2	N (-4m ²)	Nil	NO	Y	Y
5	1	48 m ²	46.5 m2	N (-3.5m ²)	26 m ²	Y	Y	N
6	Studio	27 m ²	23 m2	N (-7m ²)	7 m ²	Y	Y	N
7	Studio	16 m ²	16 m2	N (-19m ²)	Nil	NO	Y	N

8	1	35 m ²	33 m ²	N (-17m ²)	45 m ²	Y	NO	Y
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Proposed Addition(s)

Unit Number	No. Beds	GFA (Applicant's Calculations)	GFA (Council Calculations)	GFA ADG Compliance	POS	POS compliance	Cross Ventilation	Solar > 2 hours
9	2	81m ²	81.65m ²	Y	41.1m ²	Y	Y	Y
10	2	67m ²	67.7m ²	Y	8.68m ²	NO	Y	Y

The proposed development would result in seven (7) units of the overall number of units (representing 70%) that would not satisfy the minimum sizes recommended by the ADG. Furthermore, three (3) of these units do not include private open spaces. The private open space for proposed Unit 10 is below the minimum 10 square metre recommended by the ADG. Two (2) tenancies that are undersized and currently benefit from natural cross-ventilation would no longer benefit from natural cross-ventilation and light as a result of the proposed addition to the northern aspect of the existing building.

Concerns have been raised whether the proposal would comply with the provisions of the SEPP for universal design and whether the development would cater for mobility impaired persons. The ADG requires a range of dwelling types that match the demographic diversity of the Bayside Area and are accessible or may be adapted to meet the needs of people who have limited physical mobility. The ADG indicates that at least 20% of the units within a residential flat building should be of Universal Design Housing, designed to meet the needs of the residents as they age. The building does not comply with the objectives of the ADG relating to universal design and adaptability.

Generally, the proposal would be unable to comply with the objectives and intentions of the SEPP 65 and its ADG and being a prohibited land use in the zone, the proposal is not supported for the intentions of a residential flat building.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	No - see discussion	No - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	No - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	No - see discussion	No - see discussion
4.6 Exceptions to development standards	Yes - see discussion	No - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes - see discussion	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes - see discussion	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R2 Low Density Residential

The development application is for the alterations and additions to a "residential flat building" (as noted in the submitted Statement of Environmental Effects). The site is located within a R2 - Low Density Residential zone. The existing land use has been characterised as "Residential Flat Buildings", which is listed as a prohibited land use within the zone pursuant to the Rockdale Local Environmental Plan 2011 (Rockdale LEP). The proposed addition is for two dwellings attached to the building with no physical connection to the existing building.

Notwithstanding such prohibition, if "existing use rights" can be satisfactorily established for the land affected by the proposed development, then the consent authority may approve a development application, however subject to meeting the relevant requirements applying to existing uses under Sections 4.65 through 4.70 of the Environmental Planning and Assessment Act, 1979 as well as the existing use rights provisions under Part 5 of the Environmental Planning and Assessment Regulation 2000.

The proposal was accompanied by a "Legal Advice" letter prepared by Apex Planning and Environment and dated 26 October 2016 on behalf of the applicant and to enable lodgement of their development proposal. The Legal Advice provided by the applicant concludes as follows:-

"12. In my opinion, it is beyond doubt that the use of the Property for the purpose of flats is an existing use within the meaning of Section 106(a) of the Environmental Planning and Assessment Act 1979 (EPA Act).

13. I am aware that a development application has been prepared and is ready to be lodged with Council ("the DA"). I note that the DA seeks to construct a further two (2) dwellings attached to the building. As stated above, the effect of Section 108 of the EPA Act (and Environmental Planning and Assessment Regulation) is to permit the altering, adding to, or enlargement of an existing use. In my opinion, the Council is empowered to grant consent to the DA should it see fit on the merits."

Section 106 (currently nominated as Section 4.65 under Division 4.11 Existing Use Rights) of the Environmental Planning and Assessment Act 1979 (EPA Act), reads:-

(a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*

(b) *the use of a building, work or land:*

(i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*

(ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

For the continuance and limitation on an existing use, Clause 4.66 of the EP&A Act states:-

(1) Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.

(2) Nothing in subsection (1) authorises:

(a) any alteration or extension to or rebuilding of a building or work, or

(b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or

(c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or

(d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17(1)(b), or

(e) the continuance of the use therein mentioned where that use is abandoned.

Of relevance is Clause 42(2) of the Environmental Planning and Assessment Regulation 2000 as follows:

42 (2) The enlargement, expansion or intensification:

(a) must be for the existing use and for no other use, and

(b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

Comment: - Under the Rockdale LEP, Bayside Council is the responsible authority for ensuring that the legal provisions of this instrument are carried out. In this particular case, the alleged existing use, which the applicant and owner are making of the land, is prohibited by law.

Council sought legal advice from its solicitors in relation to the existing use claim only. Following this advice, the applicant was requested to respond to the public submissions as to the alleged use of the property for the purposes of a boarding house.

The relevant statements from the residents are below:

- 'Our understanding is that it is supposed to be a single occupancy dwelling but even casual observation will reveal that in our 37 years living at 123 Forest Road it has always been used as a Boarding House not flats. I have personally known people who have stayed there. Having been in the property on a few occasions, including a viewing prior to being purchased by the previous owner it is a typical Boarding House with small rooms for sleeping and shared amenities.'
- 'In fact an excerpt from advertising material used in the sale of the property in May 2006 reads: "The Gables is presently owner occupied, with the rest being leased out as accommodation rooms, currently returning \$48,800.00 p.a. gross with potential for substantial increase" Note that the current owners purchased the property advertised as being "Owner occupied" with "accommodation rooms" leased out, only since this sale to the current owners in May 2006 has the property been advertised with all bedrooms leased as separate rooms. Also during the sale of the property in May 2006 the property was listed as containing only 7 bedrooms.'
- 'I have a cousin that lived there for a while. We had a look at it when it was for sale (in the early 2000's I think.) prior to the new owner doing repairs and alterations. The home had several bedrooms but shared bathrooms(3) and kitchen facilities and was in need of extensive repairs at that time. It was definitely not configured as flats.'

In the response the applicant's solicitor argues that the plans submitted with the application show self

contained units each containing a bed, kitchen and bathroom. It goes further to cite various case law where the definition of 'boarding house' was tested including: *Mackay v Newcastle City Council* [2007] NSWLEC 377 at [20], *Roberts v Waverley Municipal Council* (1198) 14 NSWLR 423 and *Kamel & C Pty Ltd (as Trustee for Urbanski Property Trust) v Federal Commissioner of Taxation* [2004] ATC 2075 at [26]. In item 6 and 7 of the response and as a summary, the solicitors conclude:

6. In my opinion, the submissions made by the objectors to the DA cannot be sustained in circumstances where the layout of the building did not permit the provision of board and/or meals and each of the "Units" was, and are, self-contained with no common facilities for the occupants apart from the provision of access to each unit. Further, the definition of "dwelling" in the LEP provides that: dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

Further, a residential flat building is defined in the LEP as:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

7. As noted above, the layout of the building on the subject property comprises 8 "units", all of which are self contained and meet the definition of a "dwelling". They are constructed and/or adapted to be used as a separate domicile. In my opinion, it is beyond doubt that the correct and proper categorisation of the building is a "residential flat building".

The applicant has provided extensive documentation to support the existing use rights claim. However, there still exists some doubt as to the appropriate characterisation of any existing use rights and whether such rights have been proved to the required standard. For example, the applicant states that 'each of the "Units" was, and are, self - contained for no common facilities for the occupants apart from the provision of access to each unit'. However, contrary to this point there is historical evidence of there being common facilities (see for example letter dated 25 August 2015 from Margaret Freedman provided by the applicant). There is also no evidence of consent being granted to facilitate the currently existing 8 'units' (including the current self contained facilities), and the evidence also indicates that historically there were only 4 or 6 'units', not 8. In any event, for the reasons outlined elsewhere in this report, even if it were to be accepted that the land does enjoy existing use rights, the proposal is unsatisfactory on its merits. Accordingly, the applicant's onus is not considered to have been discharged at this stage, and in any event it is not considered necessary to conclusively resolve the existing use rights issues at this time.

The proposed development has also been assessed having regards to the relevant provisions of the Rockdale Local Environmental Plan 2011 (RLEP). The subject land is zoned R2 - Low Density Residential under the provisions of RLEP. The objectives of the zone are:-

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

The proposal has been assessed against the planning principles established by the Land and Environment Court in *Fodor Investments Pty Ltd v Hornsby Shire Council* [2005] NSWLEC 7th relation to existing use rights as follows:

1. How do bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relates to what it is permissible on surrounding sites?
2. What is the relevance of the building in which the existing [use] takes place?
3. What are the impacts on the adjoining land?

4. What is the internal amenity?

The application seeks consent to the construction of two (2) additional units at the northern side of the existing premises. This represents an additional 147.72sq.m. of gross floor area. The proposed addition creates bulk towards the rear of the site by reducing the setbacks from the boundaries, reducing the landscaped area within the site and creating negative impacts on the character of the building as seen from Forest Road by incorporating additional parking. The proposal will have a negative impact on the existing curtilage of the building and will increase the site coverage beyond to what it is predominant is the surrounding low density area.

The bulk and scale of the building extending towards the rear and the proposed setbacks are not compatible with that of surrounding properties. Visual impacts to neighbouring properties, in particular the western neighbour, are significant. The proposal lacks internal amenity to three of the existing dwellings by not providing private opens space, seven dwellings do not meet the minimum internal area and one of the new dwellings has an undersized area of private open space. The proposal does not have a communal area and by occupying the rear of the site with the new addition, the proposal will further eliminate any possibility of making improvements to the amenity of existing residents.

It is considered that the proposed development is not of a scale or density compatible with the low density residential environment and does not comply with the objectives of the zone. The proposal is not satisfactory when assessed against the planning principles established by the Land and Environment Court and is not supported.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing roller door, part of the existing rendered wall to Towers Place and the existing single storey metal shed and awning. The proposal therefore satisfies the provisions of this Clause.

4.3 Height of buildings

The maximum height of the proposed addition is 9.3 metres from the natural ground level and therefore, the proposal exceeds the maximum permissible 8.5 metres height shown for the land in the Height of Buildings Map (Sheet HOB_003) of the RLEP 2011. The variation is 800mm.

The proposed height is not compatible with the scale of the nearby R2 zone and does not allow an appropriate transition in built form and land use intensity. The current proposal does not satisfy the objectives of the height provisions in RLEP 2011 in providing a building height, which is consistent with the desired residential development in the area.

4.4 Floor space ratio - Residential zones

Clause 4.4 of the RLEP aims to establish *the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale [area]*. Additionally, the maximum floor space ratio (FSR) for a building is not to exceed the FSR stipulated under the Floor Space Ratio Map (Sheet FSR_003). The FSR required for the zone 0.5:1.

The proposed FSR would be in the order of 0.63:1 and does not comply with the stipulated development standard for R2 zones. The additions present a total gross floor area of approximately 469.19 square metres (including the existing building's floor area) hence a departure of 33% over the development standard stipulated under the RLEP and is not supported.

A detailed and well founded Clause 4.6 "Exceptions to Development Standards" under the RLEP has not been submitted demonstrating compliance with the zone objectives and the objectives of the floor space ratio standard. The applicant argues that 'the FSR development standard in clause 4.4(2) of RLEP would have the effect of derogating from the right to add to the existing use and therefore has no effect.'

It is noted that the existing building only would comply with the FSR standard. It is only with the addition that the proposal exceeds the standard. The addition is not considered to be part of the existing building as it has nil relationship with the existing building other than having the proposed parking spaces for one of the new units in the Forest Road frontage, which can only be accessed via the footpath.

In this regard the additional floor space is not supported as it is not considered to be consistent with the objectives of the FSR control.

4.6 Exceptions to development standards

If it is assumed that the property benefits from existing user rights, as argued by the applicant, clause 4.6 of the RLEP 2011 does not apply. See discussion above in relation to existing use rights.

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

6.2 Earthworks

Earthworks including excavation would be required on site for erection of the proposed two (2) storey addition at the northern side of the existing building. The objectives and requirements of Clause 6.2 "Earthworks" of RLEP 2011 have been considered in the assessment of this application.

It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Notwithstanding, relevant conditions would be included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation and drainage impacts are minimised if approval is granted to the proposal.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS), which is set at RL51metres AHD. The proposed addition RL 60.169AHD (as per the submitted architectural plans) and therefore will penetrate the OLS. The application sought approval under the Airports (Protection of Airspace) Regulations 1996, for the potential intrusion of the proposed development into the airspace, which under the regulations, is prescribed airspace for Sydney Airport.

Sydney Airports advised that the application has been referred to CASA for approval a the proposal intercepts the obstacle limitation surface (OLS). At the time of writing this report a response has not yet been received.

6.7 Stormwater

The proposal involves a combined on site detention tank and rainwater tank to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

6.12 Essential services

Services are currently 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
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes	Yes
4.2 Streetscape and Site Context - General	No - see discussion	No - see discussion
4.3.1 Open Space and Landscape Design - Residential Flat Buildings	No - see discussion	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	No - see discussion	No - see discussion
4.3.3 Communal Open Space	No - see discussion	No - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	No - see discussion	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes - see discussion	Yes - see discussion
4.4.5 Acoustic privacy	No - see discussion	No - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	No - see discussion	No - see discussion
4.6 Parking Rates Residential Flat Buildings	No - see discussion	No - see discussion
4.6 Car Park Location and Design	No - see discussion	No - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes - see discussion	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	No - see discussion	No - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings	No - see discussion	No - see discussion
5.2 RFB - Site Coverage	No - see discussion	No - see discussion

4.1.4 Soil Management

The Soil and Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

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

4.2 Streetscape and Site Context - General

The proposal is located in a R2 - Low Density Residential Zone. This clause requires the design of the buildings to be consistent with the dominant character of the area and to respond sensitively to the context.

The following components of a streetscape should be considered to ensure new built elements "fit-in" with the established streetscapes and the character of the area:-

- setbacks,
- materials, colours textures,
- scale of the buildings, height, bulk,
- roof form, pitch,
- landscaping, garden treatments,
- space between buildings, rhythm,
- facades, window placement,
- heritage themes,
- fences, driveways,
- existing street trees,
- balance between solid walls and openings,
- avoid symmetrical design elements.

Comment:- The immediate context is relatively low scale, consisting of single and double storey low density residential development. A characteristic of low density areas is the large setbacks of buildings particularly at the rear. Buildings are generally single storey at the rear. For dwellings and medium density developments, the DCP recommends a rear setback of at least 6m for the first floor level. The proposed addition will reduce the northern setback to 3.0 metres and would break the consistent pattern of open corridors in the low density area and as recommended by the DCP. The proposed development does not create an appropriate transition in built form.

The primary frontage of the overall site is to its southern quadrant facing Forest Road. However, independent entrance off Towers Place has been planned for the proposed addition. The proposed addition will feature a front setback of 2.3 metres to Towers Place. The adjacent development to the north (being No. 2 Towers Place) has a front setback, which varies from approximately 3.6 to 4.5 metres to the boundary. The proposed front setback of 2.3m including the first floor component is not compatible with the setback of the adjoining building and those on the opposite side of Towers Place, whose average front setback is at least 6 metres.

In addition to the above, the proposal is utilising the front setback and front curtilage of the existing building for carparking. The existing limited concrete area on the Forest Road frontage will be significantly increased to allow maneuvering of vehicles and the addition of two carparking spaces. The existing carparking space will be relocated behind the building line reducing the landscaped area further. Refer to figures below. One of the carparking spaces is to be provided for one of the new units at the rear, which is not practical as there is no access to the carparking space from within the property. The provision of additional parking at the front is to the detriment of the existing attributes of the streetscape and is not supported.

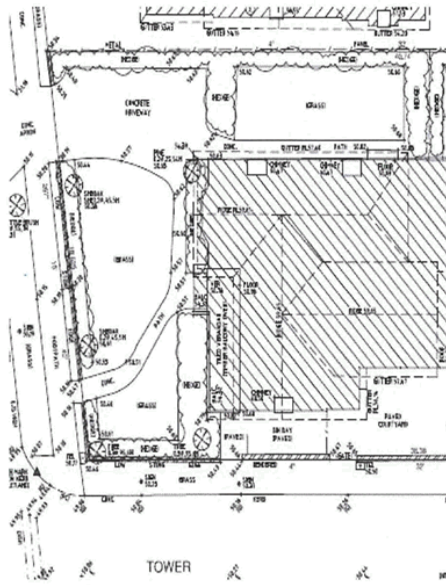


Figure 4 - Existing front landscaped area.
Source: Survey Plan Norton Survey Partners

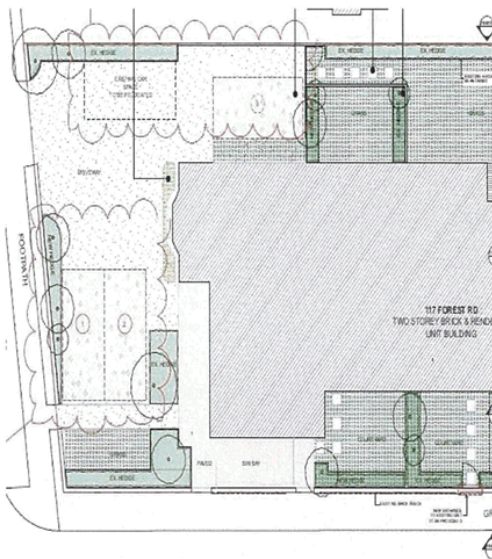


Figure 5 - Proposed front landscaped area
Source: Landscape Plan BKA Architecture

The proposed addition will not have a front door/living room/kitchen window addressing the street, with the building's frontage and entry points not being readily apparent from the street.

Consequently, considering the proposed density and scale of the development, the overall building

design is not consistent with nor it enhances the character and amenity of the local area. The proposed addition will re enforce a non conforming use in perpetuity. The overall proposal does not have regard for the low density environmental characteristics and constitutes an over development of the site.

The proposed development has been designed with appropriate use of articulation and modulation to the facades via the incorporation of balconies, pedestrian entries at ground level, upper level voids and a range of materials, which may add visual interest to the facades although not responsive to the intensity and scale of development in the area.

4.3.1 Open Space and Landscape Design - Residential Flat Buildings

The proposal complies with the minimum 15% landscaped area required under this clause. However, the proposal compromises the existing front setback, which is an important feature of the site with the addition of three carparking spaces. The use of the existing front garden for parking and the proposed rear addition compromise the streetscape and the environmental amenity. The proposal removes the existing landscaping corridor characteristic of low density areas and as recommended by the DCP (refer to diagram below). The proposal is not consistent with the objectives of this clause.

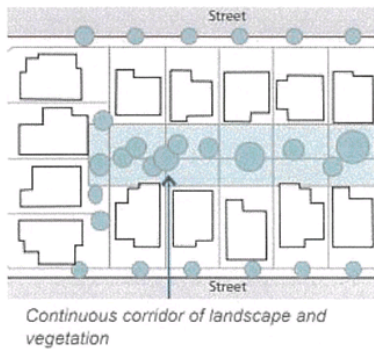


Figure 6 - DCP landscaping provision for low density areas

4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

Private open space areas should be of dimensions to suit the projected requirements of the house occupants and to accommodate outdoor recreation needs. The premises have been extensively modified in an unregulated manner since the rooms of a house has been converted into individual occupancies.

The Rockdale Development Control Plan 2011 adopts the private open space provisions of the SEPP 65's ADG. As stated previously, three of the units (existing) do not have a designated private open space and the private open space of the new dwelling is undersised. The proposal does not comply with this clause.

4.3.3 Communal Open Space

This clause requires a communal area at the rate of 5sq.m. per dwellings for residential flat buildings (RFBs) containing 12 or more dwellings. For RFBs with less than 12 dwellings, an equivalent area of private open space is to be provided to each unit. The proposed extension removes the only area that could have been used for communal use with the potential to improve the amenity of residents. Further three units do not have any private open space. The proposal does not contribute to social interaction and recreational opportunities for the residents and is not consistent with the objectives of this clause.

As such the proposal is not supported in this regard.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The objectives of the solar access provision within the Rockdale DCP is to ensure that reasonable solar access to living areas within dwellings and to open space around dwellings is achieved. Rooms generally used during the daytime should be capable of receiving adequate sunlight. Dwelling-houses should not unreasonably obscure sunlight to habitable rooms, solar collectors or open space of adjoining development during the winter months.

The proposal seeks to locate the two (2) storey addition attached to the northern wall of the existing building. The addition will block three (3) windows currently located at the northern aspect of the existing building, which provide natural ventilation and sunlight to a bathroom, kitchen and a bedroom. Additionally, the private open space will be affected in terms of solar access by the positioning of this addition and the dividing fence, whose shadows cast towards the south onto the yard. The open space at the northern side will not be able to receive adequate solar access in winter time.

Whilst the proposal complies with the numerical controls in regard to impacts on neighbouring buildings and units within the site (if taking into account the total number of units), the proposed extension impacts on the amenity of existing Units 3 and 8 and as such the proposed extension is not consistent with one of the objectives of the clause and is not supported in this instance.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development has been designed to achieved natural ventilation and lighting, incorporating minimum ceiling heights of 2.7 metres to the ground and first floors. The majority of the units enjoy cross ventilation. However, the proposal results in the reduction of light and ventilation of Units 3 and 8 as previously discussed.

4.4.5 Visual privacy

The proposed development has been generally designed and sited to minimise the overlooking of adjoining properties. The proposed deck in the new ground floor unit is elevated and in close proximity to the rear boundary, including the retention of the existing tree. The level of the deck must be reduced and landscaping should be planted along the boundaries. Subject to these requirements, the proposal is satisfactory in regard to privacy impacts.

4.4.5 Acoustic privacy

An acoustic report has been submitted. The report does not address compliance with this clause in regard to acoustic insulation of floors for the proposed extension. A condition of consent would be required to achieve compliance with this control and the objectives of the clause.

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 fails in the following controls:

- No three bedroom apartments are proposed.
- No adaptable unit is proposed.

The proposal is therefore not considered to satisfy the requirements of Part 4.5 of RDCP 2011.

4.6 Parking Rates Residential Flat Buildings

Council requires that parking for residential flat buildings be provided as follows:-

- 10 spaces for the residential component, plus
- 2 spaces for the visitors, plus
- 1 space for a bicycle, plus
- 1 space for motorcycle

Concil's DCP allows consideration of the historical parking deficiency on the site when alterations and additions are proposed. There is one carparking space on site. However, it is noted that the site has a layback on the Towers Place frontage and a roller door, which previously lead to a garage. Therefore there was vehicular access to the site in the past and the possibility to improve the current situation by providing car parking spaces at the rear. The number of carparking spaces that the rear area accommodated was one. It is estimated that at least four (4) car parking spaces may be able to be accommodated on site at the rear. The existing building generates a demand of 8 carparking spaces, two visitor spaces, one bicycle and one motorcycle space. With the proposed addition, the proposal would be required to provide two additional parking spaces (for the new dwellings) and one visitor space. Considering the historical deficiency, the proposal would be required to provide two (2) car spaces for the new dwellings, one space for the existing building and one (1) visitor space. A total of 4 spaces.

The proposal provides four (4) car parking spaces to serve the development, positioned at the frontage and rear of the development site. The proposed addition would remove the possibility of additional parking at the rear of the site. There is no physical connection within the site between the car parking space that would be allocated to one of the new units and the unit itself. The proposed arrangement of utilising the public footpath is not practical nor is it appropriate. In addition, the proposed parking in the front setback significantly reduces landscape planting and the two spaces are not supported as discussed previously.

The location of the site offers significant constraints having frontage to a state road with clearway restrictions and to Towers Place, which is very narrow and on a dead end. A site inspection and the submissions by the residents, confirm that on street parking is limited. On the site inspection several cars were found parked in the footpath. The proposal does not cater for sufficient and convenient parking required for a "residential flat building" development in this context and the proposal is not consistent with the requirements and objectives of this clause.

4.6 Car Park Location and Design

According to this clause, proposals should provide vehicular access to buildings that is simple, safe and direct and also that maintains the amenity of the adjoining properties. The design and location of the garages and car parking spaces should not adversely affect the integrity of the building and its setting and/or the character of the area. Car parking should be provided behind the building line so as to avoid impacts on the streetscape's visual amenity.

The site provides space for four (4) car parking spaces, two (2) spaces accommodated within the front setback, one (1) space located on the western side of the building (behind the front building line) and one (1) space accommodated along the north-eastern boundary of the site with access via Towers Place.

The proposed location of the parking area in front of the building line has a negative impact on the streetscape and the existing setting of the building. The loss of private open space on the western side of the building to accommodate the carparking space is not appropriate. Further, one of the proposed units at the rear does not have convenient and safe access to the parking area with access from Forest Road. In this regard the proposal is contrary to the objectives of this clause and is not supported.

4.6 Vehicles Enter and Exit in a Forward Direction

The main vehicular entry to the site is via Forest Road and will remain unchanged. A new vehicular crossing is proposed via Towers Place, which will provide vehicular access to a single car parking space (nominated as Space 4). Council's engineer has reviewed the parking layout and raised no issues. The proposal complies with this clause.

4.7 Air Conditioning and Communication Structures

Plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition may be imposed on the draft Notice of Determination requiring air conditioning units to be obscured from public view should they be provided if approval is granted to the proposal.

4.7 Waste Storage and Recycling Facilities

The aims of the waste minimisation and management requirements under the Rockdale DCP is to ensure that waste storage and recycling facilities are of appropriate size, location, design and construction. Waste disposal collection points should not compromise the amenity of the adjacent properties in terms of noise, odour and aesthetic impacts.

A Waste Management Plan has been submitted. Details of the waste management for the existing building have not been stated. The plans show a garbage area within the front setback of the proposed extension. This area is not linked to the existing building so it seems to benefit only the two new units. Details of the structure is unknown. Impacts on the streetscape is likely. Based on the information provided, the proposal is not considered to have addressed this clause appropriately and is not supported in this instance.

4.7 Laundry Facilities and Drying Areas

Plans illustrate the provision of internal laundry facilities within the units. The provisions of this clause have been satisfied.

5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings

This clause has been used as a guide to indicate what the planning controls stipulate in regard to setbacks of buildings in a low density residential zone. Council's Development Control Plan stipulates a 3 metre rear setback provided for the ground level component to be increased to 6 metres for the upper storey. The DCP also refers to the predominant front setback within the street to determinate an appropriate front setback for new buildings. Further the DCP encourages first floor levels to be setback from the street to minimise the bulk of buildings in low density residential zones.

The proposal would not achieve the prescriptive measures stipulated for rear and front setbacks under the Rockdale DCP. It is also considered that the proposal would reduce the level of landscaping and would not protect the visual amenity of the properties at the north and western quadrant. The reduced 2.3m front setback of the proposed extension is uncharacteristic of Towers Place, in particular recent dwellings constructed on the opposite side. The proposal is not considered satisfactory regarding setbacks.

5.2 RFB - Site Coverage

Under this clause, the building footprint for residential flat buildings should not exceed 35% of the site area. The proposed building footprint has been calculated as 45% of the site area. Given the site location in a low density zone, the proposed building footprint is not considered appropriate. Further as previously discussed in this report, the lack of communal space and provision of private open space for some dwellings is not supported. Rather than increasing the intensity of the site and building footprint, the proposal should have regard to improving the amenity of existing residents by providing better facilities within the site.

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. The proposal involves the demolition of some elements of the existing building. Council's building surveyor has assessed the fire safety considerations under the BCA and advised that the building is a Class 2 building of Type B construction. Additional measures will be required during construction to achieve compliance with the BCA.

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 relevant planning controls. The impacts that have not already been addressed are as follows:

Social Impact

Whilst strata subdivision is not part of the proposal, the legitimisation of the existing use and its further intensification will maintain in perpetuity a non conforming use not in accordance with Council's policies and the environmental capacity of the land as envisaged by current planning policies for a low density residential area. It is likely that this building will be lost in the future to the low cost market creating a void in the Rockdale affordable housing stock. The existing building does not provide adequate facilities to all its residents such as private open space and/or areas to socialise. Further the parking is not sufficient for the intensity of development. The proposed addition further exacerbates this issue by developing the rear of the site as a separate entity, which would otherwise be used for parking or as a recreation area for the residents.

Heritage Impact

The property is not listed in Schedule 5 - Heritage of Rockdale Local Environmental Plan 2011. However Council's heritage advisor has reviewed the proposal and advised that 'the property has heritage value as an excellent example of a late 19th century Federation two storey dwelling house. It has rarity in Bayside West as a surviving late 19th century brick building with its upper walls fully clad in timber shingles. The property has historical value by providing physical evidence of the historical development of Arncliffe at the end of the 19th Century and prior to the Towers Estate subdivision of 1911. The property has potential local heritage value.'

The applicant provided a Statement from 'Heritage and Environmental Design' which concludes that

'the proposed new building will have minimal adverse impact on the aesthetic significance of "The Gables" and the surrounding streetscape.'

Council's heritage advisor has advised that the documents do not meet the standards for heritage impact assessment or heritage management documents as they do not include an assessment of heritage significance. Heritage significance needs to be assessed and clearly defined in order to determine the impact of development upon heritage significance. As the property is not heritage listed there is no statutory requirement to provide a heritage impact statement.

Based on this, Council's heritage advisor has no objection to the proposed addition.

Safety and Security

Safer by Design principles of crime prevention through environmental design are incorporated into Rockdale's DCP and this aspect is included in the assessment of this proposal. The proposal is acceptable in regard to safety and security.

Construction

The proposed extension is to be constructed in timber cladding and colorbond roof. There are no specific issues relating to the BCA in the proposed design. Conditions of consent would be necessary to ensure minimal impacts to the surrounding properties and soil and water management measures are in place during construction.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. The applicant claims that site is subject to the existing use rights provisions of the EP&A Act and Regulation. The land is already at its capacity and further intensification of the non conforming use is not considered appropriate in this instance. The site is not suitable for the development as proposed.

S4.15(1)(d) - Public submissions

The proposed development was placed on exhibition and was notified to adjoining and nearby landowners between 12 December 2016 and 13 January 2017 in accordance with Part 8 of the Rockdale DCP. Seven (7) public submissions were received, objecting the development application. The objections are noted below as follows:-

Issue: The proposal relates to a "boarding house" not to a "residential flat building"

Comment: The applicant has submitted information to support their claim that the existing building enjoys existing use rights as a residential flat building and not a boarding house.

Issue: "Flat buildings" are prohibited in low density residential areas and should not be accepted as "existing usage"

Comment: This issue has been addressed in the report

Issue: The proposed additions bear no resemblance to the existing dwelling at No. 117 Forest Road

Comment: The plans have been amended. The existing building is not listed as a heritage item. Nevertheless it is recognised as having some heritage value as an excellent example of a late 19th

century Federation two storey dwelling house. Council's heritage advisor has assessed the proposed additions and raised no objection on heritage grounds.

Issue: The development does not cater for mobility impaired persons

Comment: This issue is valid and has been highlighted in the assessment of the report as a non compliance matter.

Issue: Towers Place is very congested -parking wise. Some residents tend to park onto the footpath illegally.

Comment: Noted. The proposal is not considered to be appropriate on parking grounds as previously stated in this report.

Issue: Inadequate parking provided in the site.

Comment: As above.

Issue: Inadequate private open space provided in the site.

Comment: This issue has been identified in the assessment and addressed previously in this report.

Issue: Excessive floor space ratio

Comment: Refer to comments in the report under CI 4.4 of RLEP assessment.

Issue: Visual amenity and privacy.

Comment: The proposed bulk and setbacks are uncharacteristic of the area however, the proposal is not considered to be unreasonable in regard to privacy impacts as discussed in the report.

Issue: Noise pollution.

Comment: The proposal is unlikely to generate unreasonable noise impacts to neighbours.

Issue: The proposed design does not respond with the surrounding properties.

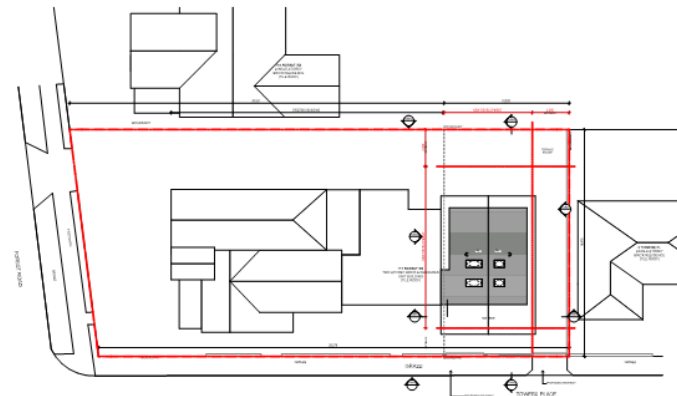
Comment: The streetscape issue has been previously addressed in this report and is was found to be unacceptable.

S4.15(1)(e) - Public interest

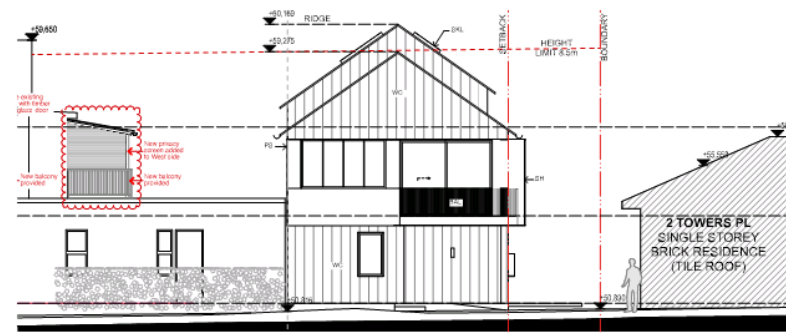
The proposed development seeks to legitimise and extend an existing use, which is prohibited in the zone. Recent case law (*Saffioti v Kiama Municipal* [2017] NSWLEC 65) has established that DCP provisions are relevant to the assessment of an application relying on existing use rights. Whilst the proposed retention of the existing heritage significant building is commended, the proposal fails when assessed against provisions of the DCP in regard to setbacks, bulk and scale, streetscape, site coverage, landscaped area and car parking as stated in this report. Based on this and the submissions lodged, it is considered that the proposed development is not in the public interest.

S7.11 Contribution towards provision or improvement of amenities or services

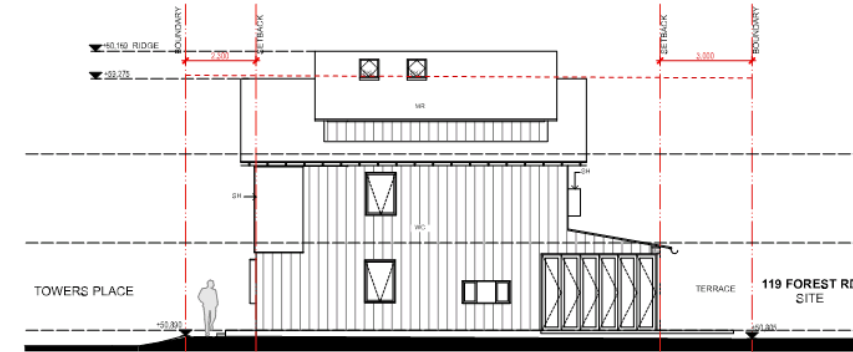
A Section 7.11 Contribution Payment is payable in accordance with Council's Policy should this development application be approved.



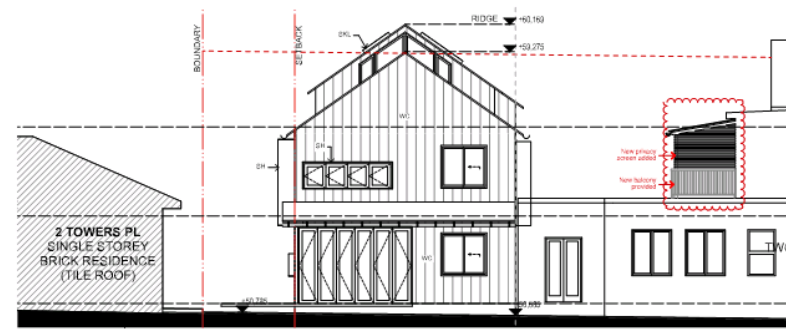
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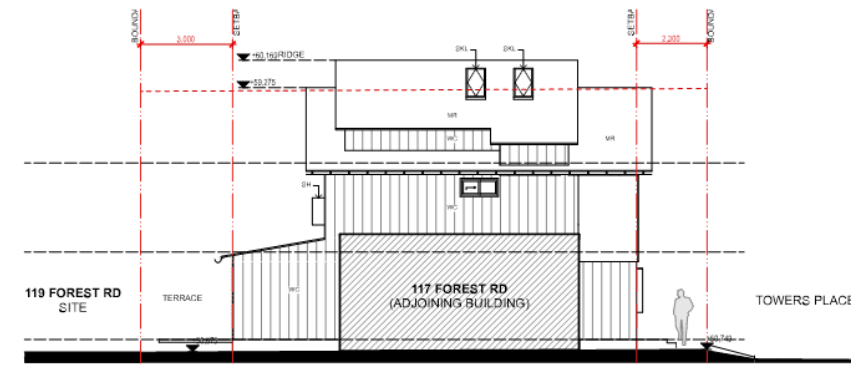
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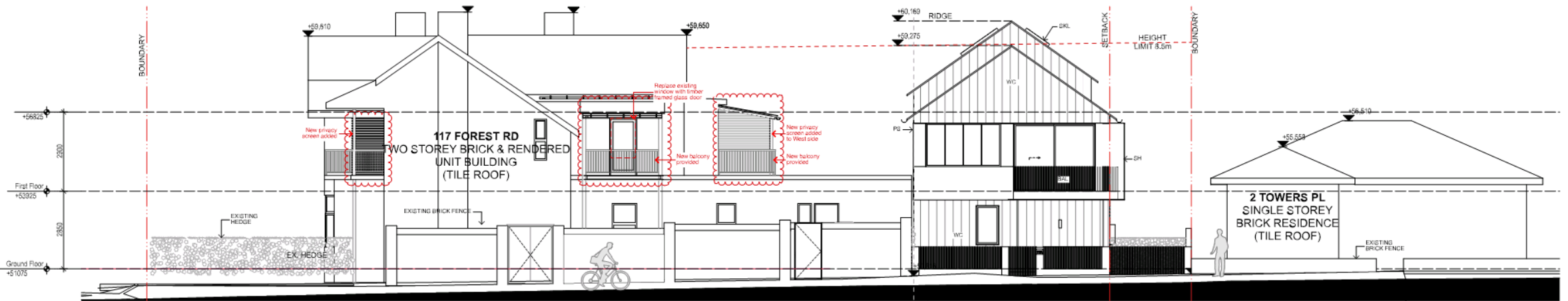
4 NORTH ELEVATION
Scale 1:200



3 WEST ELEVATION
Scale 1:200

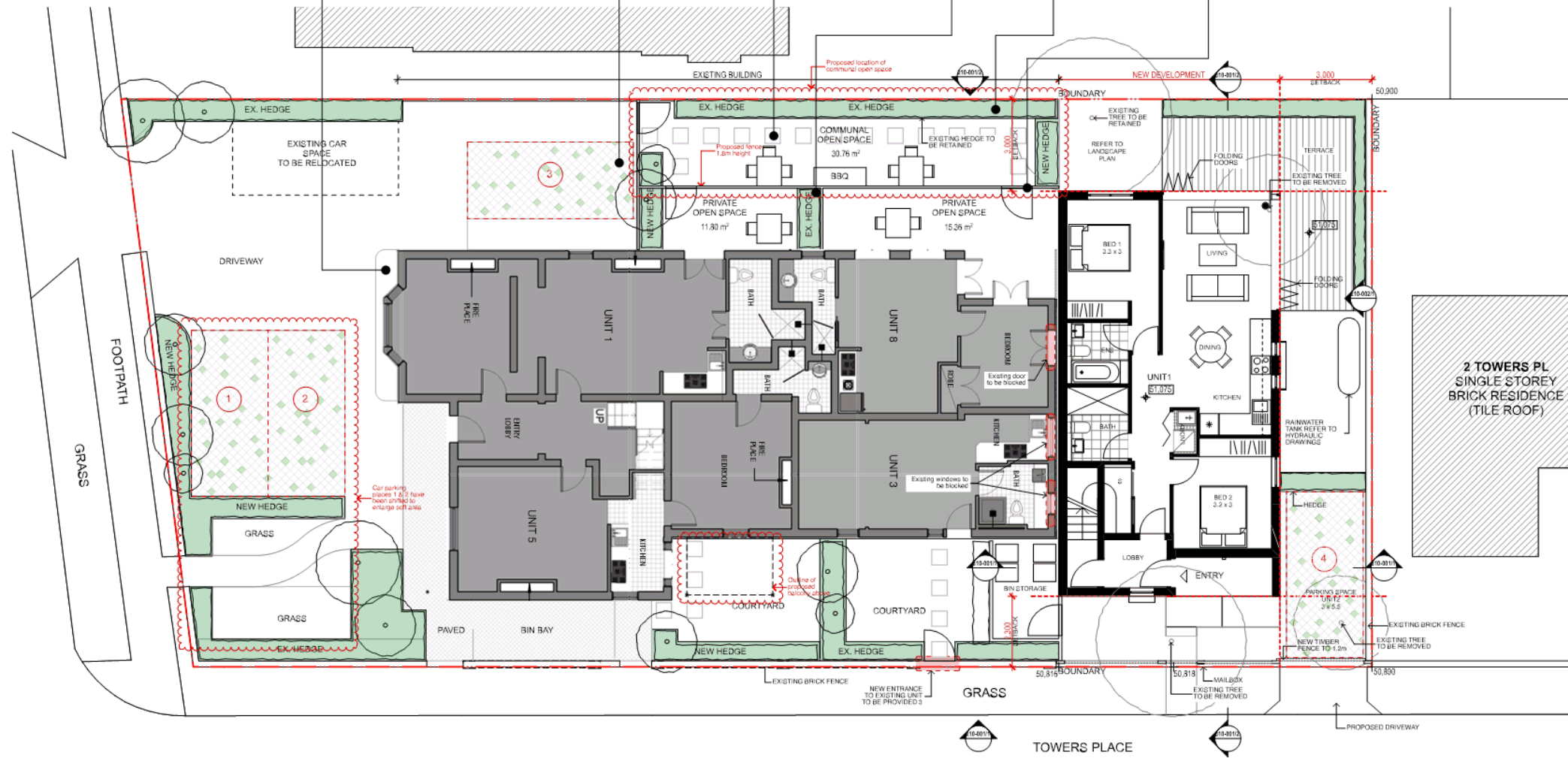


5 SOUTH ELEVATION
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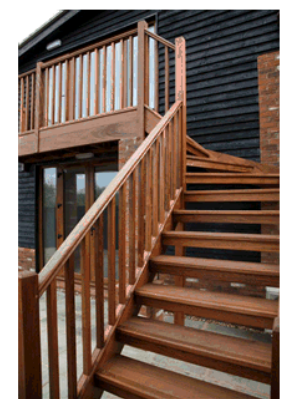
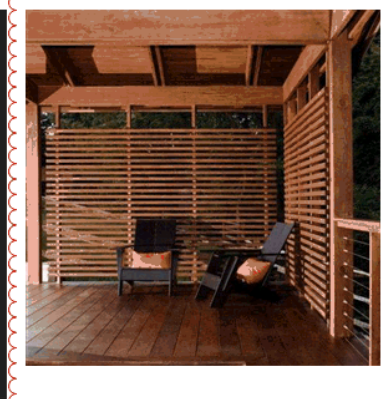
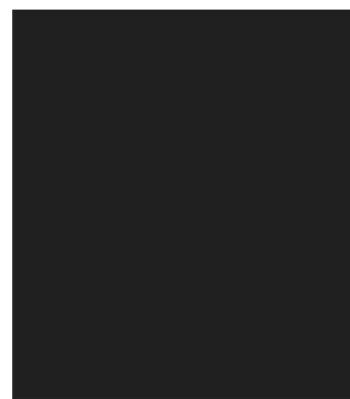
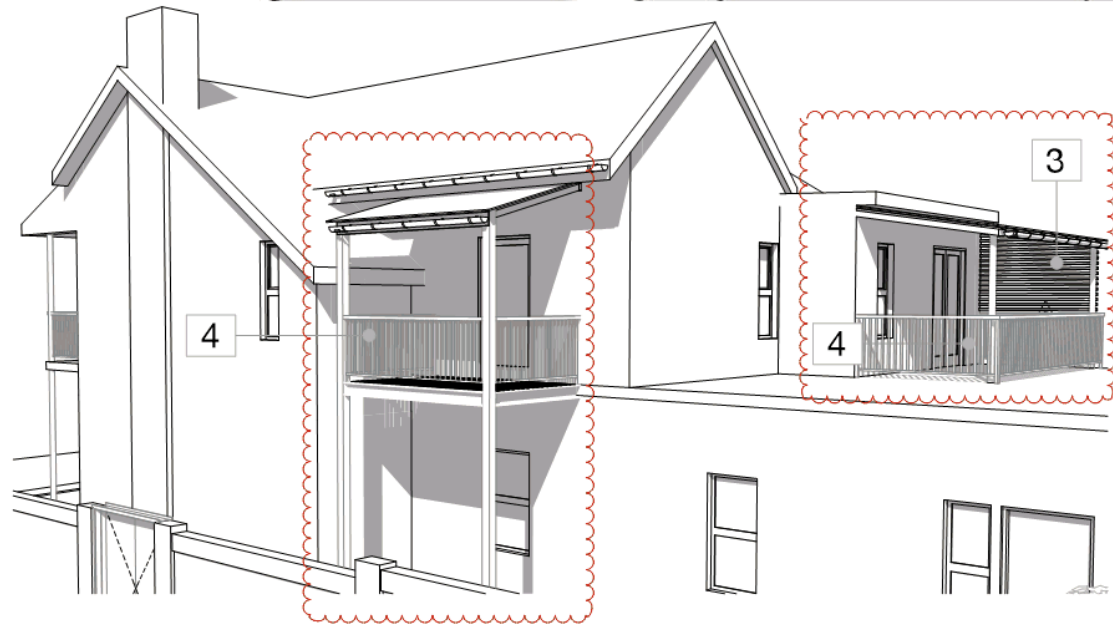


6 Streetscape
Scale 1:150

<p>LEGEND</p> <p>FB FACE BRICK BAL GLASS BALUSTRADE PS PRIVACY SCREEN SH SUNHOOD MC METAL CLADDING MR METAL ROOF</p>	<p>NORTH</p> <p>BAK architecture Baker Kavanagh Architects Suite 1.04, 77 Dorrington Ave, Rosebery NSW T 612 9219 2000 W www.bka.com.au</p>	<p>DATE: 2/12/2019 REVISION: REVISION FOR THE PANEL</p> <p>PROJECT: ALTERATIONS & ADDITIONS TO EXISTING RESIDENTIAL FLAT BUILDING</p>	<p>117 FOREST RD ARNCLIFFE NSW 2205</p> <p>16018</p>
		<p>13.007</p> <p>KERRY & SAFWAT SABA</p> <p>NOTIFICATION PLANS</p>	<p>DATE: 4/12/18 DRAWN: 1:100, 1:500 CHECKED: LE DATE: JK</p> <p>DA-800-001</p>



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117 FOREST RD ARNCLIFFE NSW 2205												
KERRY & SAFWAT SABA	16013											
CONTEXT DRAWINGS _Landscape												



1_TIMBER CLADDING 2_MONUMENT COLORBOND 3_NON-COMBUSTIBLE TIMBER SCREEN 4_NON-COMBUSTIBLE TIMBER BALUSTRADE to match existing balcony posts & balustrades

	BAK architecture Baker Kavanagh Architects Suite 1.04, 77 Dorrington Ave, Rosebery NSW T 612 9219 5000 W www.bka.com.au	DATE: 01/12/2019 REVISION: REVISION FOR THE PANEL	PROJECT:
		117 FOREST RD ARNCLIFFE NSW 2205	16018
COLOUR & MATERIAL BOARD		DATE: 4/12/18 DRAWN: LE CHECKED: JK	PROJECT: DA-900-001 SHEET: 6



PROPOSED COMMUNAL OPEN SPACE

PLAN OF MANAGEMENT

117 Forest Road, Arncliffe

Prepared on behalf of Kerry & Safwat Saba

10 December 2018

Ref: 14088

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ABN: 96 152 879 224

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1.0 INTRODUCTION

Genevieve Slattery Urban Planning Pty Ltd has prepared this Plan of Management on behalf of the Applicants, Kerry & Safwat Saba, in relation to the use of the proposed communal open space associated with the residential flat building at No. 117 Forest Road, Arncliffe (the site).

This Plan is prepared in order to address and manage the use of the proposed communal open space ensure a high level of amenity is maintained for occupants of the building as well as neighbouring residents.

2.0 OBJECTIVES

This Plan of Management relates to the use of the communal open space proposed in conjunction with the residential flat building at the site.

The purpose of this Plan of Management is to document the rules, processes and procedures by which the quiet enjoyment, safety, security and utility of the communal open space will be achieved and preserved for the benefit of the residents of the residential flat building, the neighbours and the community as a whole.

The Applicants intend to achieve these outcomes by implementing this Plan of Management.

3.0 DETAILS OF PROPOSED COMMUNAL OPEN SPACE

3.1 Design

The proposed communal open space is located on the western side of the site, and comprises an area of 30.76m². The space will have a 1.8m high fence on its northern side and planting on its western and northern sides.

A BBQ and outdoor furniture will be provided, for use by residents and their guests.

3.2 Hours of use of communal open space

Use of the common open space is to be limited to between 7am and 10.00pm to limit any noise impacts on nearby properties.

3.3 Rules for use of communal open space

1. Residents and their guests are to consider their neighbours at all times.
2. Use of the communal open space is prohibited before 7am and after 10.00pm.

3. Music must not be played at a level where it can be heard in any nearby properties.
4. Parties and other large gatherings are strictly prohibited.
5. Residents are required to clean after themselves following use of the communal open space.

3.8 Complaints

The Applicant will ensure that the adjacent premises have up to date contact details of the Managing Agent the premises. Neighbours will be able to use these contact details to contact the Managing Agent to make a complaint about any anti-social behaviour or any noise issues arising from the communal open space.

Contact details for the Managing Agent will also be displayed at the premises' main entry points and communal open space as the first point of contact for any anti-social behaviour or noise complaints.

All complaints by Lodgers will be handled by the Managing Agent of the site.

An incident/complaints log will be maintained by the Managing Agent to record the details of each complaint or incident. The Managing Agent shall take appropriate action to resolve all complaints.

3.9 Tenancy agreements

A copy of this Plan of Management is to be provided to all tenants as part of their rental tenancy agreement.

4.0 REVIEW OF THIS PLAN OF MANAGEMENT

As this Plan of Management aims to reduce any adverse impacts arising from the proposed communal open space on the amenity of surrounding residents, it will be subject to periodic reviews to address any operational issues.

Bayside Local Planning Panel**12/02/2019**

Item No	6.4
Application Type	Modification to an approved residential flat building
Application No	DA-2017/1224/2
Lodgement Date	06/11/2018
Property	DA-2017/1224/3- 130-150 Bunnerong Road Eastgardens
Ward	Port Botany
Owner	Karimbla Properties (No. 39) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify the location of the fire control room and hydrant booster and minor unit reconfiguration
No. of Submissions	Nil
Cost of Development	0
Report by	Michael McCabe, Director of City Futures

Officer Recommendation

That the Bayside Local Planning Panel APPROVE Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify the location of the fire control room and hydrant booster and minor unit reconfiguration at 130-150 Bunnerong Road, Eastgardens. The conditions are to be modified as follows:

Amend Condition No. 1 to reflect the amended plans.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Basement Plan [↓](#)
- 3 Ground Floor Plan [↓](#)
- 4 Eastern Elevation Plan [↓](#)
- 5 Northern Elevation Plan [↓](#)
- 6 Southern Elevation Plan [↓](#)
- 7 Western Elevation Plan [↓](#)
- 8 Statement of Environmental Effects [↓](#)
- 9 GFA Plan- Ground Level to Level 3 [↓](#)
- 10 Ventilation Plan- Ground Level to Level 3 [↓](#)
- 11 Solar Analysis Plan- Ground Level to Level 3 [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/1224/03
Date of Receipt:	6 November 2018
Property:	130-150 Bunnerong Road Eastgardens Lot 21 DP 1242288 (formerly Lot 2 in DP 1187426)
Owners:	Karimbla Properties (No. 39) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify the location of the fire control room and hydrant booster and minor unit reconfiguration
Recommendation:	Approval, subject to recommended conditions of consent.
Value:	N/A
No. of submissions:	Nil
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	21 January 2019

Key Issues

Development Application No. 2017/1224 was approved by the Sydney Eastern City Planning Panel on 2 August 2018 for the integrated development application for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys with approval for 356 apartments.

Bayside Council received the subject Section 4.55(1A) Application No. 2017/1224/04 on 6 November 2018 to modify Development Consent No. 2017/1224 to modify the location of the fire control room and hydrant booster and minor unit reconfiguration.

Due to the nature of the proposed modifications, the application was not required to be placed on public notification as stipulated within Part 2 of the BBDCP 2013.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to the modifications to the conditions of consent.

Recommendation

That the Bayside Local Planning Panel:

Item	Bayside Planning Panel Meeting 12/02/2019
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1. Approve Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify the location of the fire control room and hydrant booster and minor unit reconfiguration at 130-150 Bunnerong Road, Eastgardens. The conditions are to be modified as follows:
 - a) Amend Condition No. 1 to reflect the amended plans.

Background

Site Description

The overall Stage 1 Master plan site is contained within the block bound by Bunnerong Road to the east, Banks Avenue to the west, Heffron Road to the north, and Westfield Drive to the south. The north eastern portion of this block is the consolidated British American Tobacco Australia (BATA) operations which does not form part of the subject site. The site is made up of one allotment legally described as Lot 2 in DP 1187426, with a total site area of 103,547sqm.

The site is irregular in shape with frontages to Bunnerong Road, Heffron Road, Banks Avenue and Westfield Drive of 194.21m, 107.22m, 419.85m and 342.34m respectively. The site also has two internal boundaries of 237.75m and 238.20m with the remaining BATA site.

The portion of the overall site relevant to this application is known as Urban Block 3 (UB3) in the Stage 1 consent. UB3 is located on the western side of the site between Banks Avenue to the west, East-West Boulevard (Tingwell Boulevard) to the north and north-street 1 (Finch Drive) to the east. The subdivision of the site in accordance with the Stage 1 consent has been approved under DA-15/104 and further modified under DA-15/104/05 and DA-14/96/03. UB3 is Lot 5 on the approved subdivision plan and has an area of 9,434sqm. The lot is generally rectangular in shape with a frontage to Banks Avenue, Tingwell Boulevard, Finch Drive and the southern boundary.



Figure 1. Locality Plan

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Approved Development

- DA-2017/1224- The proposed modifications are carried out on UB3 which the SECPP approved on 2 August 2018 for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development comprised of 356 units and a GFA/FSR of 36,879.1sqm (3.9:1).

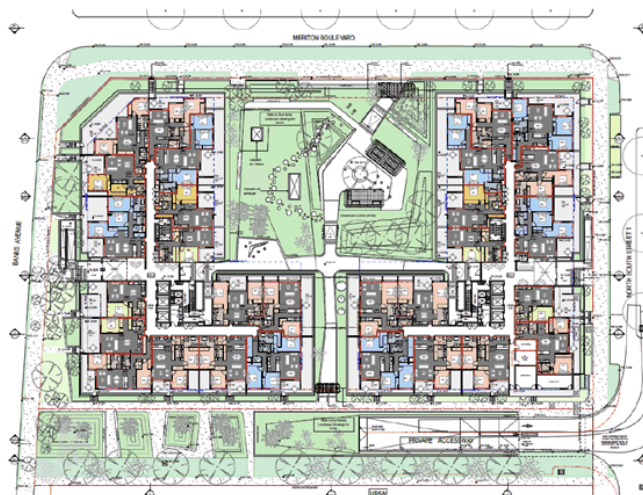


Figure 2. Approved Ground Floor Plan

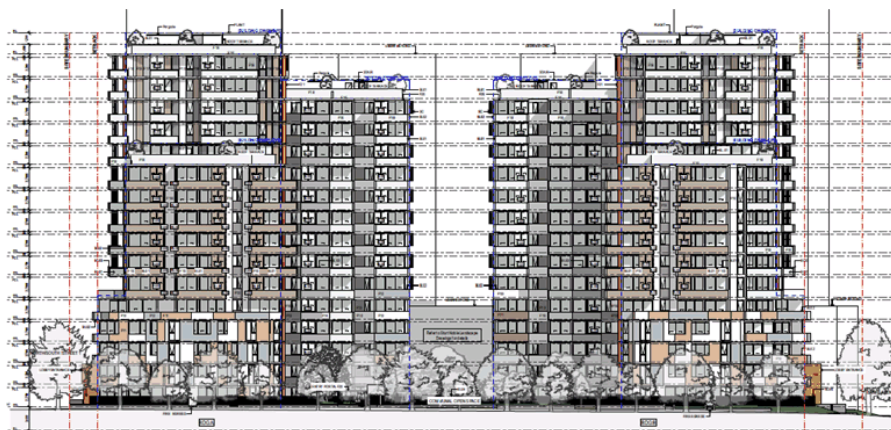


Figure 3. Approved Northern Elevation

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Figure 4. Approved Southern Elevation



Figure 5. Approved Eastern Elevation



Figure 6. Approved Western Elevation

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- DA-2017/1224/02- On 9 October 2018, the application was approved under delegation to amend Condition Nos. 24 and 25 to reflect amended S.7.11 Contributions.
- DA-2017/1224/04- Modification Application is currently under assessment with Council and is scheduled to be determined on 12 February 2018 for modifications conditions relating to landscaping and stormwater.

Description and Assessment of the Proposed S.4.55 (1A) Modifications

The proposed development in its amended form seeks consent to amend the architectural plans as provided in Condition No. 1 of the consent to reflect minor modifications to the approved built form. The modifications include relocation of the hydrant booster and fire control room to the Banks Avenue frontage therefore resulting in minor modifications to a number of ground floor units and the main lobby.

Modification No. 1 – Relocation of fire control room and hydrant booster

The approved development provided the fire control room at ground level located towards the eastern side of the floor. The fire hydrant booster was located external to the building along the eastern side of the site off Finch Drive. The applicant required confirmation and approval by Fire and Rescue NSW who did not support the approved location of the fire control room and fire hydrant/booster.

Comments provided by Fire and Rescue include the following:

In regard to the fire hydrant booster:

“FRNSW do not support the location of the FBBA. FRNSW recommends the firefighting equipment be accessible from Banks Avenue. FRNSW have commented on previous Blocks, regarding the advantages of having the firefighting equipment in locations that provide greater accessibility. FRNSW appliances are large and the need to manoeuvre through internal roads should be avoided.”

In regards to the fire control room:

“FRNSW do not support the alternative solution. FRNSW recommends the firefighting infrastructure be accessible from Banks Avenue. FRNSW recommends that Building B contain the FCR and Building A should be provided with a FCC.”

The applicant has submitted the subject application to address the non-compliances. The figures below demonstrate the approved development locations and the proposed development locations of the fire control room and fire hydrant booster. The proposal appears to now comply with Clause E1.3 of the Building Code of Australia and Australian Standards AS2419-2005 which relate to fire safety, access and distances. However this will need to be signed off and approved by Fire and Rescue NSW

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Figure 7. Approved location of fire control room and fire hydrant booster system

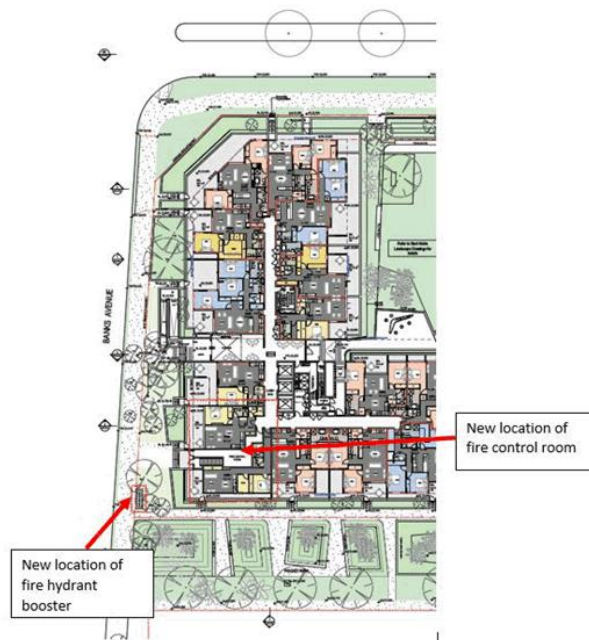


Figure 8. Proposed location of fire control room and fire hydrant booster system

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Modification No. 2 – Reconfiguration to the ground floor level

The resultant changes to the reconfiguration of the fire control room results in minor internal changes to units at ground level. The changes to the approved internal layout and unit mix are as follows:

- Increase the size of the lobby in Building A to allow for a manager’s office and disabled bathroom;
- Increase in the size of Unit G10 from 87.3sqm to 98.3sqm to replace the approved fire control room and increase the internal unit layout. No change is proposed to the number of bedrooms within this unit;
- Decrease in the size of Unit G08 by 16.5sqm resulting in a reduction in bedrooms from three bedroom unit to a two bedroom unit; and
- Decrease in the size of Unit G26 by 23.7sqm resulting in a reduction in bedrooms from two bedroom unit to a one bedroom plus study unit.

The changes are highlighted in red bubble as demonstrated within Figure 9 below.

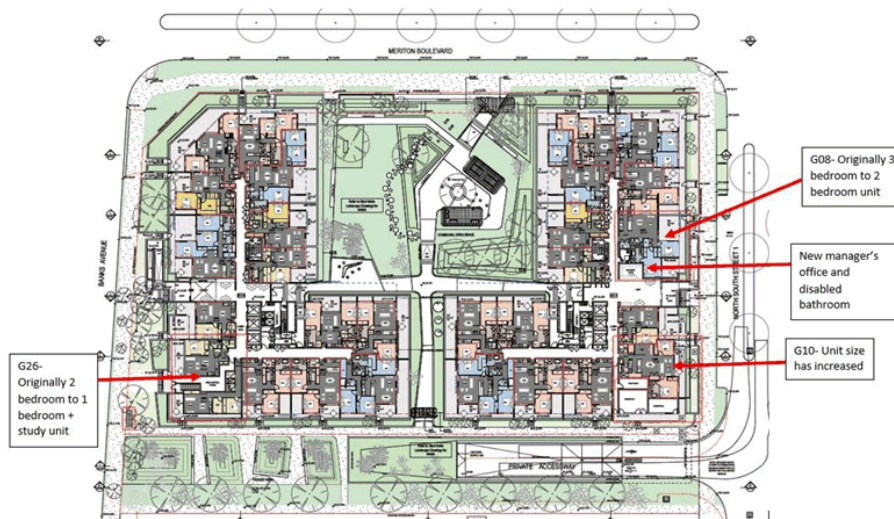


Figure 9. Proposed changes to the ground floor

The changes result in a GFA of 36,854.1sqm which is 25sqm reduction in floor area than the approved GFA of 36,879.1sqm. The FSR approved on the site of 3.91:1 does not alter and remains consistent with the Stage 1 consent and DA-2017/1224.

The proposal seeks to amend the unit mix that was approved under DA-2017/1224 which was as follows:

- 1 bedroom units = 15%
- 2 bedroom units = 63%
- 3 bedroom units = 22%

The proposed unit mix is as follows:

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- 1 bedroom units = 15.2%
- 2 bedroom units = 63.2%
- 3 bedroom units = 21.6%

The modification to the unit mix is very minor and does not significantly alter the approved development. The unit mix control within the approved development and within the Stage 1 consent continues to be applicable and compliant.

The changes to the unit mix results in changes to the car parking requirements. As Unit G08 and G26 lose one bedroom within the development, each unit loses half a car parking space. This results in one car parking space to be lost and the applicant has proposed its removal within the basement car parking layout. The original DA approved a total of 591 car parking spaces which includes residential, car share, visitor spaces, courier and loading spaces and car wash bay. The proposal provides a total of 588 car parking spaces within the basement which results in a loss of one car parking space for the reasons provided above. The space lost within the basement level is demonstrated in the figure below. Two of the car parking spaces are provided on street for car share. The overall number of car parking spaces has not been altered within conditions as the condition outlines the minimum residential car parking requirement. The original DA approved an excess of residential car parking therefore the proposal continues to comply with the car parking requirements under the Stage 1 consent.

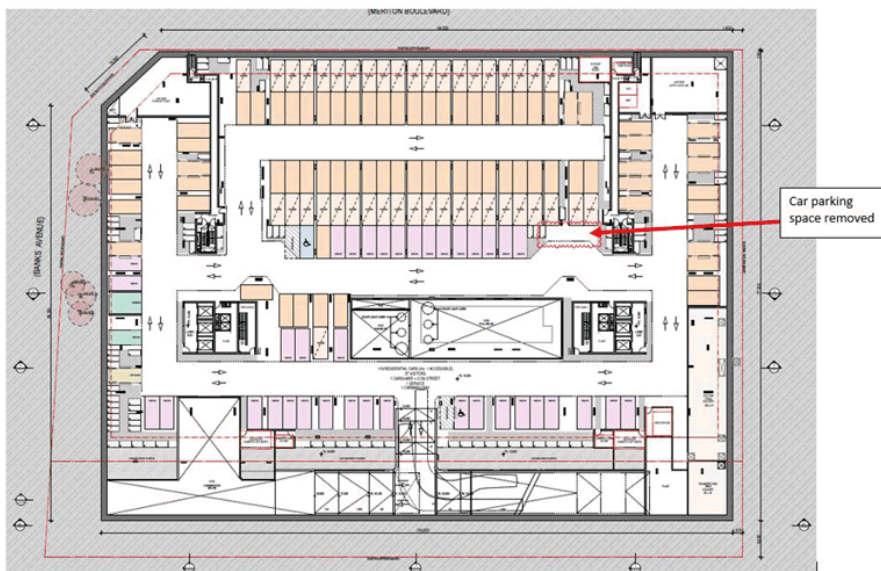


Figure 10. Proposed changes to the basement car parking level

Due to the changes that were requested within the Fire and Rescue report relating to fire egress and access to the fire booster/control room, the minor changes to the proposed development are considered acceptable and should now address compliance with Fire Rescue. The changes to the unit mix, reconfiguration of the units and increase in the size of the lobbies are not considered to be significant changes and allow the development to be compliant and consistent with the approved DA under DA-2017/1224 and under the Stage 1 consent.

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Statutory Considerations

SECTION 4.55(1A) CONSIDERATIONS

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:”

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

The Section 4.55(1A) modification application relates to amendments to the approved development including the relocation of the fire hydrant booster and fire control room and minimal modifications to the approved internal layout of three units, and as such, the modifications will result in substantially the same development as approved under DA-2017/1224 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to the relocation of the fire hydrant booster and fire control room and minimal modifications to the approved internal layout of three units, therefore the modification application is substantially the same development to which consent was originally granted.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was not required to be notified due to the minimal scope of work.

- 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.***

There were no submissions as the application was not notified.

SECTION 4.42- STATUS OF CONCEPT APPLICATIONS AND CONSENT CONSIDERATIONS (previously Section 83D)

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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 involves excavation for a basement car park. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

Consideration of SEPP No. 55 was carried out within the assessment of DA-2017/1224. Therefore SEPP No. 55 does not need to be assessed as part of this proposal.

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 not required to provide a revised BASIX Certificate as the proposed changes do not modify any windows or opening or thermal comfort as originally approved.

Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	N/A	The site is zoned R3 Medium Density Residential zone and B4 Mixed Use zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed modifications are permissible within the zone.
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	N/A	There is no change proposed to the approved height of the buildings.
What is the proposed FSR?	Acceptable	Maximum FSR is 1:1 (9,434sqm) – 3:1 (28,302sqm) under the BBLEP 2013. <u>Approved GFA/FSR:</u> 36,879sqm (3.9:1) <u>Proposed GFA/FSR:</u> 36,854.1sqm (3.91:1) The proposal results in a reduction in GFA of 25sqm therefore the proposal is acceptable. The total FSR remains unchanged.
Is the land affected by road widening?	N/A	The subject site is not identified as being affected by road widening.

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Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid sulfate soils (ASS) 6.2 – Earthworks 6.3 – Stormwater management 6.8 - Airspace operations 6.9 – Development in areas subject to aircraft noise 6.16 – Design excellence	Yes	The conclusions within DA-2017/1224 have not changed.

The proposed modifications will be consistent with the objectives of the BBLEP 2013 with regard to development in the R3 and B4 zone.

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

There are no current Draft EPIs applicable to this development.

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

Botany Bay Development Control Plan 2013

The Development Control Plan 2013 is not very relevant for the assessment of this application as the modifications are subject to changes to controls that are provided within the Stage 1 consent or approved under the BBLEP 2013. These controls dictate the built form, unit mix and car parking required for the development. The previous conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application.

As the proposal complies with the car parking rate required under the Stage 1 consent and continues to have appropriate vehicular access into and within the car parking levels, the amended proposal is acceptable.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed modifications relates to the conditions of consent involving relocation of the fire control room and fire hydrant with minor changes to internal reconfiguration of three units and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2017/1224.

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

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The suitability of the site was addressed in the original approval of DA-2017/1224.

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

There were no objections received with the modification application as the application was not publically notified due to the minimal works proposed.

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

The proposed amendments will have no significant adverse impact upon the public interest.

Conclusion

Section 4.55(1A) Application No. 2017/1224/03 on 6 November 2018 to modify Development Consent No. 2017/1224/03 to modify the location of the fire control room and hydrant booster and minor unit reconfiguration at 130-150 Bunnerong Road, Eastgardens.

The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is permissible within the B4- Mixed Use zone and the R3 – Medium Density Residential zone and is considered to result in a development which is suitable in the context. The proposed modification is consistent and substantially the same with the approved development on the site. Therefore, the application is recommended for approval, subject to the conditions of consent in the attached schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 130-150 Bunnerong Road, Eastgardens

DA No: 2017/1224/03

Schedule 1 – Conditions of Consent

GENERAL CONDITIONS

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

Plans	Author	Dated / Received by Council
DA-010- Site Analysis Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-011- Site Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017

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DA-100- Basement 03 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-101- Basement 02 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-102- Basement 01 Plan- Rev R1 R2	Fox Johnston Meriton Property Services Pty Ltd	Dated 29 September 2017; Received 11 December 2017 Dated 1 November 2018; Received 15 January 2019
DA-103- Ground Floor Plan- Rev R5	Fox Johnston Meriton Property Services Pty Ltd	Dated 24 April 2018; Received 8 May 2018 Dated 1 November 2018; Received 15 January 2019
DA-104- Level 1 Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-105- Level 2 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-106- Level 3 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-107- Level 4 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-108- Level 5 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-109- Levels 6-10 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-110- Level 11 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-111- Level 12 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-112- Level 13 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-113- Level 14 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-114- Level 15 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-115- Roof Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-200- South Elevation Plan- Rev R3	Fox Johnston Meriton Property Services Pty Ltd	Dated 24 April 2018; Received 8 May 2018 Dated 1 November 2018; Received 15 January 2019
DA-201- East Elevation Plan- Rev R5	Fox Johnston Meriton Property Services Pty Ltd	Dated 24 April 2018; Received 8 May 2018 Dated 23 January 2018; Received 15 January 2019
DA-202- North Elevation Plan- Rev R3 R2	Fox Johnston Meriton Property Services Pty Ltd	Dated 24 April 2018; Received 8 May 2018 Dated 28 November 2017 Received 6 November 2018
DA-203- West Elevation Plan- Rev R3	Fox Johnston Meriton Property Services Pty Ltd	Dated 24 April 2018; Received 8 May 2018 Dated 1 November 2018; Received 15 January 2019

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DA-210- Section 1 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-211- Section 2 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-212- Section 3 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-213- Section 4 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-214- Section 5 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-215- Section 6 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-216- Section 7 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-399- GFA B3- Ground Plan- Rev R1	Meriton Property Services Pty Ltd	Dated 16 July 2018; Received 17 July 2018
DA-400- GFA Level 1 to L4 Plan- Rev R2	<i>Fox Johnston Meriton Property Services Pty Ltd</i>	<i>Dated 16 July 2018; Received 17 July 2018 Dated 1 November 2018; Received 6 November 2018</i>
DA-401- GFA L5 to L12 Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-402- GFA L13 to Roof Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-410- Solar- Ground to L3 Plan- Rev R2	<i>Fox Johnston Meriton Property Services Pty Ltd</i>	<i>Dated 3 May 2018; Received 8 May 2018 Dated 1 November 2018; Received 6 November 2018</i>
DA-411- Solar- L4 to L11 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-412- Solar- L12 to L15 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-420- Ventilation- Ground to L3 Plan- Rev R2	<i>Fox Johnston Meriton Property Services Pty Ltd</i>	<i>Dated 3 May 2018; Received 8 May 2018 Dated 1 November 2018; Received 6 November 2018</i>
DA-421- Ventilation- L4 to L11 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-422- Ventilation- L9 to L14 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-423- Ventilation- L15 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-430- Communal Open Space Shadow Diagram Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-431- Deep Soil and COS Calculation Diagram Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
Privacy and screening- Rev R1	Fox Johnston	Dated May 2018; Received 17 May 2018
SKT003- Turning Paths- main basement ramp access- Issue A	ARUP	Dated 30 August 2017; Received 8 May 2018

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SKT004- Lower basement circulation- Issue A	ARUP	Dated 30 August 2017; Received 8 May 2018
DA-1711-03- Rev B- Landscape Masterplan	Sturt Noble Associates	Dated 28 September 2017; Received 27 November 2018
DA-1711-04- Rev B- Ground Floor- Communal courtyard		Dated 28 September 2017; Received 27 November 2018
DA-1711-05- Rev B- Ground Floor- Public Open Space		Dated 28 September 2017; Received 27 November 2018
DA-1711-06- Rev B- West Block- Level 14 terrace and Level 11 terrace below		Dated 28 September 2017; Received 27 November 2018
DA-1711-07- Rev B- East Block- Level 14 terrace and Level 11 terrace below		Dated 28 September 2017; Received 27 November 2018
DA-1711-08- Rev B- East and West Block- Level 16 roof terraces		Dated 28 September 2017; Received 27 November 2018
DA-1711-09- Rev B- Design Elements		Dated 28 September 2017; Received 27 November 2018
DA-1711-10- Rev B- Indicative Planting		Dated 28 September 2017; Received 27 November 2018

(DA-2017/1224/03)

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-040	Wall to Wall	Dated 28 September 2017; Received 27 November 2017
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Development Application Acoustic Report Ref: 20171309.1/1611A/R1/TA	Acoustic Logic	Dated 16 November 2017; Received 27 November 2017
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 16 October 2017; Received 27 November 2017
Thermal Comfort and BASIX Assessment Ref: 17-0216 Rev B	Efficient Living	Dated 14 November 2017; Received 27 November 2017
Building Code of Australia Compliance Assessment Report Ref: 1423-110 Rev 01	AED Group	Dated 17 November 2017; Received 27 November 2017
Construction Management Plan- Rev 1	Meriton Property Services Pty Ltd	Dated 27 October 2017; Received 27 November 2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 11 October 2017; Received 27 November 2017
SEPP 65 Design Statement and Apartment Design Guide	Fox Johnston	Dated November 2017; Received 27 November 2017
SEPP 55 Requirements	Consulting Earth Scientists	Dated 10 April 2014; Received 27 November 2017

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Geotechnical Investigation Report Ref: GEOTLCOV24928AE-AC	Coffey Geotechnics Pty Ltd	Dated 5 February 2016; Received 27 November 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 17 November 2017; Received 27 November 2017
Site Surveys	JBW Surveyors Pty Ltd	Dated 16 September 2014; Received 27 November 2017
UB3 Solar Reflectivity and Glare Assessment Ref: 610.13932-R11	SLR	Dated 16 November 2017; Received 27 November 2017
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 27 November 2017
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated October 2017; Received 8 May 2018
Section 4.55(1A) Application- Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 6 November 2018; Received 15 January 2019
Waste Management Plan Rev B	Elephants Foot Waste Compactors Pty Ltd	Dated 17 October 2017; Received 27 November 2017
Qualitative Wind Assessment Ref: 610.13932.R10	SLR	Dated 12 October 2017; Received 27 November 2017
Clause 4.6 variation to vary height and FSR development standard	Meriton Property Services Pty Ltd	Dated 23 October 2017; Received 17 May 2017
Lift Traffic Analysis Report	KONE	Dated 7 May 2018; Received 17 May 2018
Addendum to traffic report	ARUP	Dated 10 May 2018; Received 17 May 2018
Swept/turning path report	ARUP	Dated 21 March 2018; Received 8 May 2018
Cover letter addressing RFI	Meriton Property Services Pty Ltd	Dated 8 May 2018; Received 8 May 2018
Civil Works Package- UB3	At&I	Dated September 2017; Received 8 May 2018
13-155- 5600-01-Civil-DA Report/Stormwater Report	At&I	Dated September 2017; Received 8 May 2018
Stormwater Management Report- Rev 9	Aurecon	Dated 19 December 2011; Received 8 May 2018
Stage 2 Traffic and Transport Report	ARUP	Dated 30 August 2017; Received 8 May 2018
Traffic Letter	ARUP	Dated 21 November 2017; Received 8 May 2018
Apartment Schedule	Fox Johnston	Received 8 May 2018

(DA-2017/1224/03)

- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:

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- (i) The consent authority; or,
 - (ii) An accredited certifier; and,
- (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
 - (a) Note:
 - Relevant BASIX Certificate means:
 - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- 7
 - (a) Service Alterations – All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the applicant's expense.
 - (b) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.

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- (c) All telecommunication and utility services are to be placed underground along the Street frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of telecommunication and utility services works.
- (d) Street trees are to be provided in accordance with the Botany Street Tree Master Plan 2014.
- (e) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.
- (f) All telecommunication and utility services are to be placed underground along the flowing streets: The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

- 8 The following conditions are imposed by **Ausgrid**:
- (a) It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
 - (i) The existing network can support the expected electrical load of the development
 - (ii) A substation may be required on-site, either a pad mount kiosk or chamber style and;
 - (iii) site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

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- (b) The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid’s Design Information, used to prepare the connection project design.
- (c) All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines.
- (d) There are existing overhead electricity network assets in Banks Ave. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

Based on the design of the development provided, it is expected that the “as constructed” minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

- (e) There are existing underground electricity network assets in Banks Ave. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

9 The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:

- (a) The building must not exceed a maximum height of 91 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- (b) The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.

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- (c) Separate approval must be sought under the Regulations for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - (d) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.
- 10 The following conditions are imposed by **Water NSW**:
- (a) A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
 - (b) An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
 - (c) If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
 - (d) Water NSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
 - (e) If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.
- 11 The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:
- (a) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic

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control should be submitted to Council prior to the issue of a Construction Certificate.

- (b) All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on Bunnerong Road.
- (c) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
- (d) Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- (e) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- (f) All works and regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

12 The following conditions are imposed by **Sydney Water**:

(a) Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

(b) Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. The Sydney Water Tap in online self-service replaces our Quick Check Agents as of 30 November 2015.

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

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Changes to an existing service or asset e.g. relocating or moving an asset

Sydney Waters Tap In online service is available at:

<http://sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 13 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
- 14 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - (c) Permit to install temporary ground anchors in public land,
 - (d) Permit to discharge ground water to Council's stormwater drainage system,
 - (e) Permit for roads and footways occupancy (long term/ short term),

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- (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - (g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - (h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - (i) Permit to use any part of Council's road reserve or other Council lands.
- 15 Erosion and sediment control devices shall be installed and in function prior to the commencement of any construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 16 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 17 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 18 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.

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- 19 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 20 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 21 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.

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

- 22 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 23 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
 - (a) 1 Bedroom apartments 6m³
 - (b) 2 Bedroom apartments 8m³
 - (c) 3 Bedroom apartments 10m³

At least 50% of the required storage is to be located within the apartment.
- 24 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

(a)	Development Control	\$13,583.00		
(b)	Footpath Crossing Deposit	\$314,700.00	(See below)	
(c)	Section 7.11 Contributions	\$7,720,000.00	\$7,120,000.00	(See below)
(d)	Long Service Levy	See below		
(e)	Tree Maintenance Bond	\$7,500.00	(See below)	

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- (f) Street Tree Planting Bond \$7,500.00 (See below)
- (g) Public Works Defect Liability Bond \$25,000.00 (See below)

(Modified via DA-2017/1224/02)

25 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of ~~\$7,720,000.00~~ \$7,120,000.00 in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:

a)	Community Facilities	\$617,600.00 \$582,829.10
b)	Recreation Facilities	\$6,484,800.00 \$6,013,136.89
c)	Transport Management	\$540,400.00 \$472,191.93
d)	Administration	\$77,200.00 \$51,842.08

The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.

(Modified via DA-2017/1224/02)

26 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

27 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$314,700.00 (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.

28 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

29 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,

- (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - (h) Proposed protection for Council and adjoining properties, and
 - (i) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - (j) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - (k) The methodology to control dust on site.
- 30 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services). The plan shall:
- (a) be prepared by a RMS accredited consultant,
 - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - (c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

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- 31 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 32 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) A suitably qualified engineer shall design and certify the driveway access from Finch Drive to the development to ensure that stormwater from the road reserve is not directed into the basement structure, a suitable crest shall be provided to ensure flows are not directed into the basement structure, and
 - (c) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 33 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - (b) All service vehicles shall enter the property front in front out,
 - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 34 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:

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- (a) At least fourteen (14) accessible car parking spaces shall be provided and clearly marked as specified in Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - (b) All Accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.
- 35 Prior to the issue of the relevant Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - (b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (i) The additional load on the system, and
 - (ii) The relocation and/or adjustment of the services affected by the construction.
 - (c) The Ausgrid lighting poles along Banks Avenue, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
 - (d) All above ground utilities on Banks Avenue shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
 - (e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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.

- 36 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines' (SMTG), AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

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- (a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- (c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- (d) 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
- (e) A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site with a combined catchment of at least the entire roof area of the development, only roof water shall be directed to the rainwater tank(s). In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) shall service the toilets, clothes washers and any outdoor irrigation/taps for landscaping within the development, and
- (f) Basement drainage shall be provided for the collection and removal of stormwater from all basement levels. The design is to comply with Botany DCP Part 10 Section 7 and AS/NZS 3500.3:2015, details of the pump out system shall be shown on the stormwater management plans, and
- (g) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system, and
- (h) All surface runoff from parking facilities and access ways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted to the Principal Certifier, and
- (i) All electricity supply provided for all pump systems proposed for the development shall be backed up by an external power source in the event of a power outage, and
- (j) Detailed calculations including computer modelling supporting the proposal.

All plans and documentation shall be certified by a suitably qualified engineer as specified in Botany DCP Part 10 Section 2.1.

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- 37 Prior to the issue of the relevant Construction Certificate, at least two (2) car wash bays are to be provided. One of the additional residential spaces can be utilised for this purpose. A tap shall be provided along with a sign fixed to the wall saying 'Visitor Car Space and Car Wash Bay'. The car wash bay must be bunded in accordance with AS1940 – 1993 and AS/NZS 4452 – 1997 with direct connection to the sewer in accordance with a Sydney Water trade waste agreement.
- 38 Prior to the issue of the relevant Construction Certificate, a civil design plan must be prepared by a suitably qualified engineer and be approved by Bayside Council's Public Domain department for all frontage works that are required to be constructed within the public domain. A Public Domain Frontage Works application shall be submitted to Council for the works to be assessed, approved and a design brief provided, the form details can be found on the Bayside Council website. The frontage works shall be in accordance with any Council town centre plans, standard design drawings and specifications. Preliminary consultation with Council public domain department is highly recommended.
- 39 Prior to the issue of the relevant construction certificate, a Public Domain frontage landscape plan shall be submitted to Bayside Council. Landscape improvements plan shall be submitted and approved by Bayside Council's landscape architect. The plans shall include street planting, footpath paving, street tree pit treatments and tree guards, street furniture such as seats, bollards, bins, bike racks, and ground level soft landscaping treatment. The public domain landscape plans shall include the following:
- (a) Banks Avenue shall be planted with *Araucaria comlumnaris* (Cook Pines), minimum height to be installed five 5 meters high.
 - (b) Tingwell Boulevard shall be planted with *Angophora costata*, (Smooth-barked Apple)
 - (c) Finch Drive shall be planted with *Eucalyptus botryoides*, (Bangalay)
 - (d) Minimum pot size supplied to be planted for street trees is 400 Litres.
 - (e) Trees shall be sourced from a reputable supplier that grows to NATSPEC.
 - (f) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
 - (g) Tree pits shall be backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP, and have installed a RootRain Civic for an effective tree watering.
 - (h) The Applicant is required to obtain a Council inspection of new trees prior to the planting to ensure plant stock is suitable and post planting prior to the maintenance period commencing.
 - (i) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling.

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- (j) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
 - (k) All street verges will be treated with groundcovers, no turf unless approved by council.
 - (l) As a minimum, shrubs shall be planted across the front boundary and down both side boundaries to the building alignment. Plants shall be predominantly native, have low water requirements and be suited to the local soils.
 - (m) The street tree planting to all internal roads (Tingwell Boulevard and Finch Drive) are to use the Citygreen Stratavault system of planting to be incorporated into the updated Landscape Plans and documentation.
- 40 Prior to the issue of the relevant Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of RL 22.50m AHD. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at or above RL 22.50m AHD. Details and certification shall be provided to the Principal Certifier for Assessment and approval.
- 41 If required, the subsurface structure shall be designed with a water proof retention system (i.e. tanking and waterproofing) to a level that provides adequate provision for the future fluctuation of the water table. This subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. All subsoil drainage around this subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
- 42 The construction methodology, parameters, and recommendations prepared by Coffey Geotechnics Pty Ltd, ref: GEOTLCOV24928AE-AC, dated 5 February 2016, shall be implemented and relied upon during the preparation of the construction certificate documentation and the construction of the proposed development.
- 43 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Principal Certifying Authority and Principal Certifying Authority must:
- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

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- 44 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:
- (a) identify each item of plant and equipment;
 - (b) the following additional criteria adopted by Bayside Council:
 - (i) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (iv) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- 45 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 46 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by the Principal Certifying Authority prior to their installation. Fire booster assemblies should be housed within the external face of the building structure and screened from view from the public domain area.
- 47 Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.

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- 48 Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
- 49 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
- 50 The applicant is to submit payment of a Tree Maintenance Bond of \$7,500.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
- 51 Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Public Works Defects Liability Bond of \$25,000. The duration of the Bond shall be limited to a period of 6 months after Council approval of all public domain works. At the completion of the 6 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
- 52 Prior to the issue of the construction certificate, the landscape areas shown on Sturt Noble Landscape plans dated 28/09/2017 Issue B shall be the subject of detailed landscape construction level documentation to be submitted to and approved by the Bayside Council's Landscape architect. The plans shall address the following:
- (a) All four existing trees (Tree 11 and 21: *Casuarina glauca*. Trees 12 and 16: *Eucalyptus botryoides*. Trees) can be removed and shall be replaced with four (4) *Corymbia maculata*, supplied at 500 Litres minimum pot size, to be planted in the deep soil area along Banks Avenue frontage setback within the site.
 - (b) 500L minimum tree pot size is to be supplied for all trees on the ground level. The planting schedule is required to indicate pot sizes for all proposed plants;
 - (c) A minimum of 12 canopy trees shall be provided along Banks Avenue frontage landscape setback.
 - (d) All frontage landscape setback shall also include small and medium trees to provide a green buffer, this planting can include deciduous trees strategically located adjacent to north face terraces units to allow sun access in winter and shade in summer. Large canopy trees shall be included in all deep soil areas where the space allows. There shall be a variety of three heights in all setbacks inclusive of small, medium and large canopy trees with the majority (80 to 90%) being indigenous local or native species where possible. All trees must be of appropriate scale to complement and ameliorate the built form and to pedestrianise setbacks and entries and make use of feature or specimen trees. Feature/specimen trees are favoured suitable to the residential setting and to visually enhance the Banks Avenue setback and soften buildings as a component of the streetscape and public domain.
 - (e) Shrubs of varying heights shall be used throughout all setbacks of the site including at the base of the buildings to visually ground buildings and screen

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- edges and façades. Lawn shall be minimised, and be limited to recreational areas in public open space area between UB5W and UB3, where sun access allows proper growth of grass.
- (f) Screen planting or buffer planting is required along the property boundary to provide screening and privacy for UB3 residents. Screen planting shall comprise tall, dense foliated shrubs that achieve a height of 2.5 metres and that retain foliage near ground level. Planter beds shall be a minimum width of 0.75 metres.
 - (g) Planter boxes located between public open space and south façade of building shall include trees and shrubs to provide wind break and privacy.
 - (h) Landscape plans shall include/display all proposed and retained levels, top of walls and all stormwater relevant information: location of underground stormwater, pits and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised.
 - (i) A planting plan indicating all plant locations, groupings and centre/spacing. There is to be a dense, layered planting of canopy trees, medium trees and shrubs of a varying height and feature in all landscaped areas. All landscaped areas adjacent to public domain shall follow CPTED principles.
 - (j) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape handworks/materials such as retaining walls and paving.
 - (k) Provide details, sections and materials of fences, privacy screening, pergolas and walls visible from the public domain of both external roads and public open space.
 - (l) Indicate the location of all basement structures relative to the landscape areas on the landscape plan.
 - (m) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
 - (n) **Terraces landscape treatment.** Terraces shall include screen shrubs in planter boxes, with small leaves to perform as a wind breaker and mitigate wind conditions, in particular for terraces and balconies areas exposed to the southwest, from where the strongest winds prevail.
 - (o) Level 11, level 14, and level 16 roof private terraces shall include perimeter built in planter boxes, providing a total or partial enclose of each terrace. Pot plants are not supported. Planting in planter boxes shall include low maintenance feature and screen shrubs to grow 700 to 1000 mm high.
 - (p) Level 4 and level 5 open balconies shall be treated to mitigate wind effect with planter boxes with screen planting to reach 1800mm from ground level or balustrade 1395 mm high, to comply with requirements of Qualitative Wind Assessment, prepared by SLR Consulting Australia Pty Ltd, dated 12th October 2017.
 - (q) Synthetic turf is not supported. Timber deck is recommended instead to avoid raised of temperature produced by synthetic turf, overuse of water to control temperature in summer, and related environmental issues.

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- (r) All proposed pergolas shall have climbers growing on top to ameliorate amenity and environment.
 - (s) Planter boxes will be fully automatic irrigated. Construction details, sections and external finishes shall be provided. Planter box depths and construction specifications to be in accordance with Apartment Design Guide, NSW Planning and Environment, July 2015.
 - (t) Maintenance schedule for all soft and hardscape works is to be provided.
 - (u) Deep soil area between UB5W and UB3 shall avoid lawn and maximised canopy planting; trees to be supplied at a minimum 400 Litre pot size.
 - (v) The exhaust stack within the central communal open space on the ground floor must be screened with either decorative panels, climbers or similar to enhance its visual appearance within the open space and the outlook for residents.
- 53 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.
- 54 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.
- 55 Prior to the issue of a Construction Certificate, an application for Property Address Allocation and associated fee is required to be submitted to Council. Determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.
- The form is available for download at:
<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>
- The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at:
http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/2018_NSW_Address_ing_User_Manual.pdf
- The numbering (sub-addresses) of the individual units in multi-level sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.
- Developers of multi-level buildings are required to submit their schedule of addresses to Council for addressing approval prior to registration of the subdivision plan.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 56 Construction operations shall comply with the following:
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- (a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - (e) Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - (f) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
 - (g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 57 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 58 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.

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Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice. A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

- 59 Inspections must be conducted by Council’s Engineer at the following occasions:
 - (a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - (b) Formwork inspection of Council’s kerb and gutter prior to laying of concrete,
 - (c) Formwork inspection of Council’s footpath prior to laying of concrete,
 - (d) Inspections of the Banks Avenue road reserve prior and during the construction of the new road pavement,
 - (e) Final inspection of driveway layback and adjacent kerb and gutter,
 - (f) Final inspection of Council’s kerb and gutter,
 - (g) Final inspection of Council’s footpath,
 - (h) Final Inspection of new road pavement on Banks Avenue.

- 60 During demolition, excavation and construction, care must be taken to protect Council’s infrastructure and surrounding buildings, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council’s infrastructure and surrounding buildings (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council’s specification and AUS-SPEC at no cost to Council.

- 61 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council’s lands, public roads and road-related areas.

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Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

- 62 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.
- 63 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.
- 64 The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm;
 - ii) Saturday 07:00am to 03:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.
- 65 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

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- (a) The Soil and Water Management Plan if required under this consent;
 - (b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
 - (c) Protection of the Environment Operations Act 1997.
- 66 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.
- 67 All remediation work must be carried out in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - (d) the Remedial Action Plan 'Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW' prepared by Douglas Partners, Project 71631.12, dated September 2013.
- 68 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the '*Acid Sulfate Soils Management Plan – 130-150 Bunnerong Road, Pagewood, NSW*', Reference CES130805-MG-AD by Consulting Earth Scientists dated 21 January 2016.
- 69 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 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

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- (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 Results of the monitoring of any field parameters such as soil, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 73 Landscape construction should be carried out by a qualified landscape contractor to ensure that adequate standards of workmanship are achieved. Landscape contractors who are members of the Landscape Contractors Association of NSW should be engaged.
- 74 Landscaping shall be installed in accordance with the approved Sturt Noble landscape plans only stamped by Council's Landscape Architect and dated prior to the issue of a Construction Certificate. (This amended plan supercedes the original landscape plan).
- 75 In accordance with councils DCP, the following activities are prohibited beneath the canopy drip line of any tree required to be retained and protected unless otherwise approved under the development consent/plans:
 - (a) Excavations and trenching (with exception of the approved foundations and underground services);
 - (b) Ripping or cultivation of soil;
 - (c) Mechanical removal of vegetation;
 - (d) Soil disturbance or movement of natural rock;
 - (e) Soil level changes including the placement of fill material (excluding and suspended floor slab);
 - (f) Movement and storage of plant, equipment & vehicles;
 - (g) Erection of site sheds;
 - (h) Affixing of signage or hoardings to trees;
 - (i) Storage of building materials, waste and waste receptacles;
 - (j) Disposal of waste materials and chemicals including paint, solvents,

In accordance with AS 4970 – 2009, inspections shall be conducted by the Project Arborist in accordance with the following key milestones:

Prior to any work commencing on-site (including demolition, earthworks or site clearing) and following installation of tree protection fences, tags and trunk protection; During any excavations, building works and any other structure within the TPZ of the tree to be retained & protected, including any landscape works; A minimum of every month during the construction phase from Commencement to issue of the Occupation Certificate; and Following completion of the building works.

The Project Manager shall be responsible to notify the Project Arborist prior to any works within the Tree Protection Zones of protected tree within a minimum of 24 hours' notice.

- 76 If adjustment or connection to existing subsurface services or utilities within the road verge or the road carriageway is required, **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer so as not to impact or harm the existing street tree. NOTE: Services may require re-routing at the Applicant's expense to ensure tree root protection. New overhead electrical property service wires

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shall located so that it is outside the tree canopy. No canopy pruning will be permitted for service wires.

- 77 The Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 78
- (a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
- (b) The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 79 For the purposes of irrigating the landscaped areas, a water tank, minimum 25,000 litres in size but ideally equivalent to the building roof area to be drained, shall be installed on the property for stormwater collection and re-use.
- 80 All new street trees shall be installed prior to completion of the staged development. All tree planting work is to be completed and protective fencing, being 1.8 metre chainlink fence, erected around the trees for protection prior to the commencement of construction.
- 81 All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt.
- 82 A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
- 83 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- (a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
- (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
- (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
- (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply

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a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.

- (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 84 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.
- 85 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 86 Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.
- 87 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 88 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- (a) Minimum 547 residential spaces
- (b) 36 residential visitor spaces
- (c) 3 car share spaces with one located in car park and two on street;
- (d) 2 car wash bays
- (e) 1 service bay
- 89 Prior to the issue of the relevant Occupation Certificate, at least 36 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 90 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.

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- 91 Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
- 92 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 93 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- (a) On Banks Avenue, adjacent to development, remove redundant driveway crossover(s) and replace with kerb and gutter, turf, footpath and any other required tree planting and/or public domain improvements as specified by Council in accordance with Council's Infrastructure Specifications, and
 - (b) On Banks Avenue, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - (c) On Banks Avenue, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and
 - (d) On Banks Avenue, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.
- 94 The work to Tingwell Boulevard, Finch Drive, and Banks Avenue public footpath shall be constructed in accordance with Council specifications *outlined in the 'Frontage Works Approval'* Council document. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.
- Construction hold points and Council inspections are required at the following points:
- (a) after formwork installation and to prior pouring the concrete blinding slab,
 - (b) at the commencement of paving works, and
 - (c) at final completion.
- Council approval of public domain works is required prior issue of an Occupation Certificate.
- 95 Prior to the issue of the relevant 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.

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- 96 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. Certification must be provided by a suitably qualified engineer, certifying the design of the completed works.
- 97 Prior to the issue of the Occupation Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. Additionally, the plan must make provision for the following:
- (a) Recommendations and precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and
 - (b) A flood evacuation strategy for occupants, and
 - (c) Indication of the flood levels present on the site and surrounding streets.
- The plan shall be located and fixed in a suitable location that can be accessed by all occupants to the satisfaction of the Principal certifier.
- 98 Prior to the issue of the Occupation Certificate, the following easements shall be created in conjunction with Council and the beneficiary:
- (a) Register a new "Easement for public pedestrian access' over the pocket park on the southern side of the site.
- 99 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
 - (b) Positive Covenant and Restriction on Use of Land for Pump-out System. Refer to Appendix B of the SMTG for suggested wording, and
 - (c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix C of the SMTG for suggested wording.
- The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*
- 100 Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
- 101 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance

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with the NSW Addressing Policy prior to the issue of the Occupation Certificate. Application fees apply.

- 102 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.
- 103 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 104 Prior issue of an Occupation Certificate the Council footpath in front of the property is to be suitably repaired and made good after completion of construction works to Council specification and at the Applicant's expense. If existing pavers are damaged, subject to Council inspection and instruction, the Applicant is to source and purchase new pavers to match existing pavers in the street. If a significant number of new pavers are required Council may require that the entire frontage be replaced to allow for a uniform appearance. The footpath shall be maintained in a clean and tidy state at all times by the occupiers. Maintenance includes the removal of weeds and rubbish and periodic cleaning.
- 105 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- 106 The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved *Sturt Noble Associates rev B* and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.
- 107 Prior to the issue of the Occupation Certificate, a site works review is required demonstrating:
- (a) Extent and minimum dimensions of the site dedicated to landscaping comply with the Detailed landscaping plans
 - (b) All detailed works comply with detailed schedules and specifications included in the detailed landscape plans
 - (c) Any modifications to the design were an equivalent or better solutions to the requirements of the detailed landscape plans and do not affect the ability of the landscape treatment to achieve the design intent.
 - (d) Site cultivation, quality and depth of soil and mulches as a minimum complies with Council specifications and standards.

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- (e) Drainage of all open space and soft landscaping complies with detailed landscape plans and to Council standards
- 108 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:
- (a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to be documented when required and updated on As-Builts. All Australian Standards nominated in this Specification are to be the current issue.
- 109 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:
- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
- c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 110 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.
- Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable 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.
- 111 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

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- (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.

- 112 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 113 The rooftop terraces are not to be enclosed as habitable space.
- 114 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed:
- (a) Solids shall be disposed to the waste disposal, and
 - (b) De-sludged liquid shall be disposed to the sewer.
- 115 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 116 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 117 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 26 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- 118 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.

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- 119 The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council’s satisfaction, and in accordance with conditions of consent and Council’s Landscape DCP, at all times.
- 120 New street trees shall be maintained by the Applicant for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
- 121 Ongoing maintenance of grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council’s street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
- 122 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.
- 123 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.
- 124 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.
- 125 A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (b) Before 7 am or after 10 pm on any other day.
- 126 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

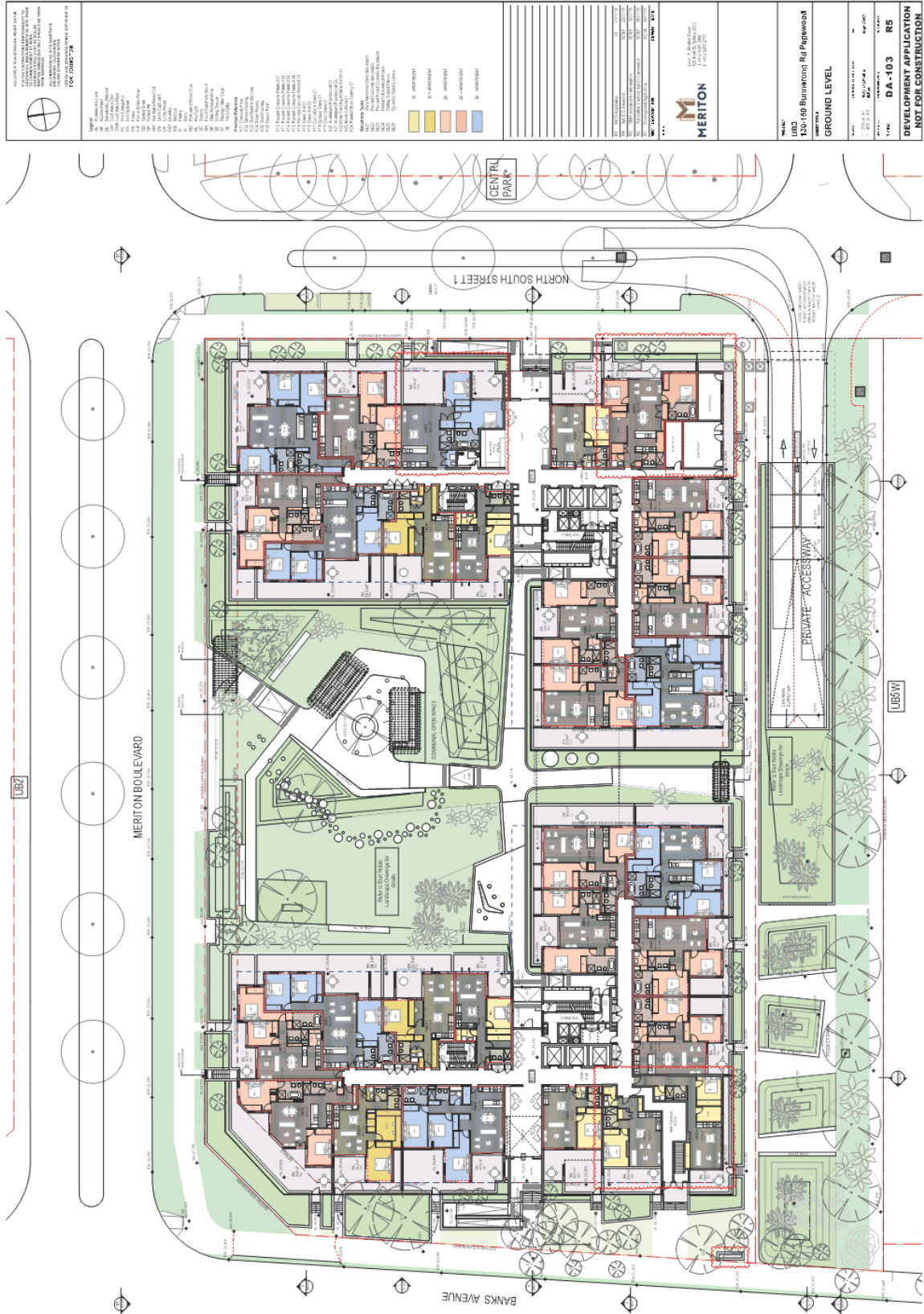
For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality,

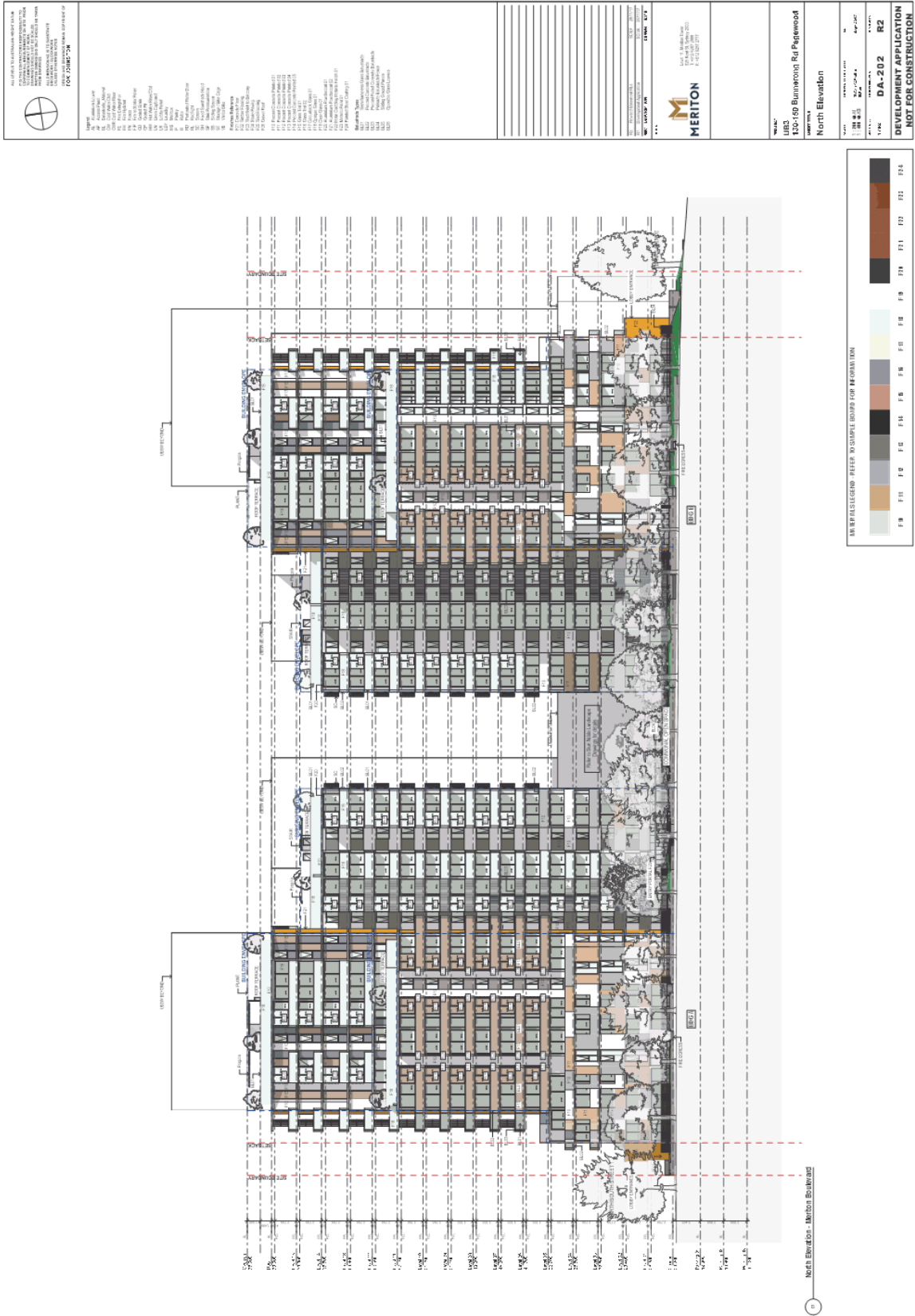
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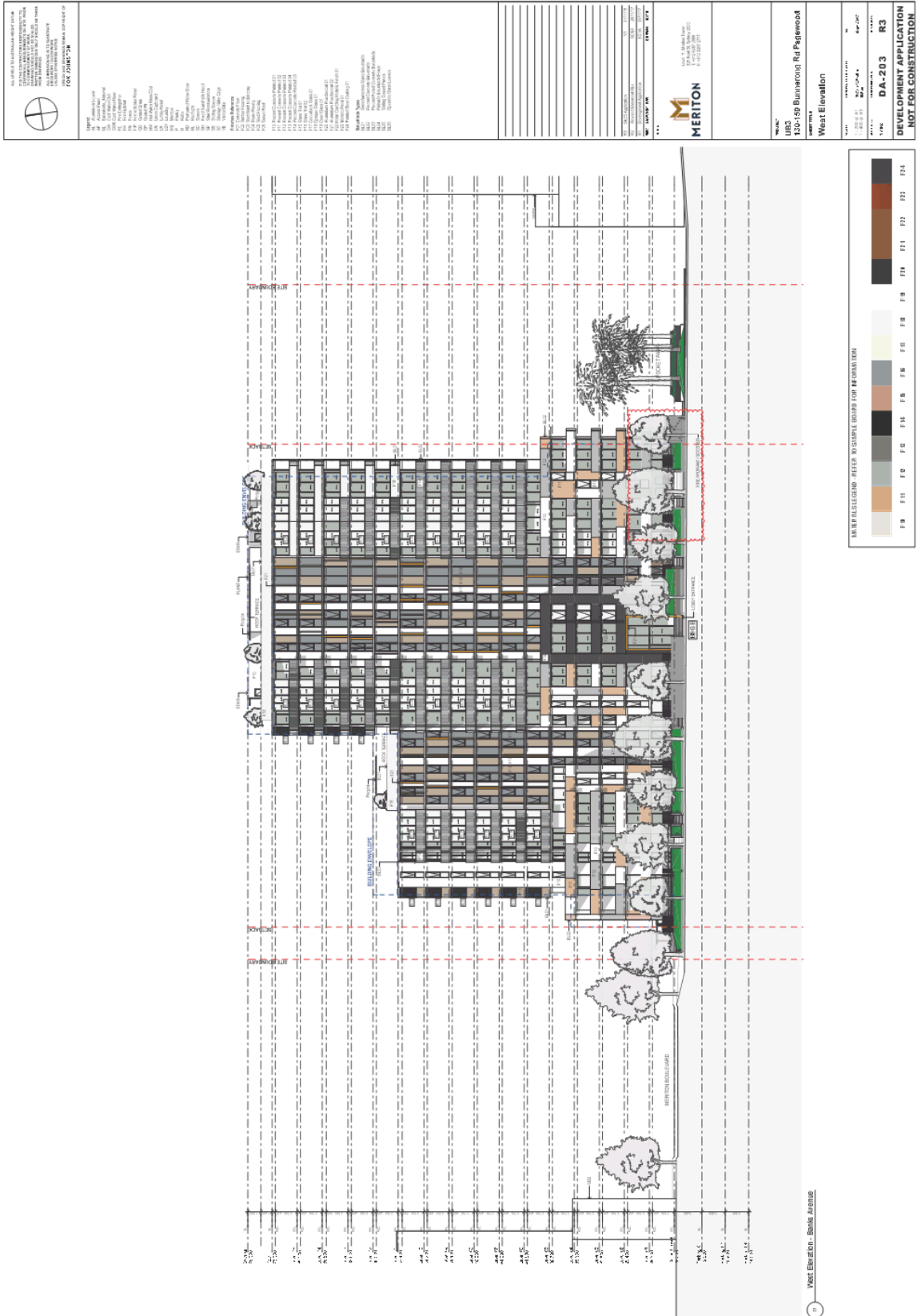
frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

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Statement of Environmental Effects

Section 4.55 (1A) Application

130-150 Bunnerong Road Eastgardens

(Lot 2 in DP 1187426)

Amend Condition 1 of Consent

6 November 2018

PREPARED BY

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1 Introduction

1.1 Overview

This application has been prepared by Karimbla Construction Services (NSW) Pty Ltd pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify Development Consent DA/2017/1224 relating to 130-150 Bunnerong Road Eastgardens (the site).

1.2 Background

Development consent (DA/2017/1224) was granted by the Sydney Eastern City Planning Panel on the 2 August 2018 for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development will comprise of 356 units.

1.3 Purpose of the Modification

Under *Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act)*, this application seeks to modify the following architectural plans approved under Condition 1 in Development Consent No. 2017/1224:

PLANS	AUTHOR	DATED/RECEIVED BY COUNCIL
DA-102 – Basement 01 Plan – Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-103 – Ground Floor Plan – Rev R5	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-200 – South Elevation – Rev R3	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-201 – East Elevation – Rev R5	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-202 – North Elevation – Rev R3	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-203 – West Elevation – Rev R3	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-400 – GFA Level 1 – L4 Plan – Rev R2	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-410 – Solar – Ground to L3 Plan – Rev 2	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA- 420 – Ventilation – Ground to L3 Plan – Rev R2	Fox Johnston	Dated 9 November 2017; Received 27 November 2017

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It should be noted, in order to comply with *Clause E1.3 of the Building Code of Australia (BCA) and Australian Standard (AS2419-2005)*, the location of the hydrant booster and fire control room needs to be relocated to face Banks Avenue, thus resulting in further minor modifications to the approved internal layout of Building A main lobby and approved apartments G26, G08 and G10.

These changes have been highlighted in red on the amended architectural plans attached in **Annexure 1**.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in *Section 4.55(1A) of the EP&A Act*.

This application is accompanied by:

- Revised Architectural Drawings prepared by Fox Johnston (**Annexure 1**).
- Design Verification Statement (**Annexure 2**).
- Fire and Rescue NSW (**Annexure 3**).

2 Proposed Modifications to the consent

2.1 Existing Consent

Development consent (DA/2017/1224) was granted by the Sydney Eastern City Planning Panel on the 2 August 2018 for the following development:

“Construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development will comprise of 356 units”

2.2 Modifications to the development

This application seeks approval under Section 4.55(1A) for the following modifications to Condition 1 in Development Consent No. 2017/1224, approved on 2 August 2018:

On request from Fire and Rescue NSW, we are required to relocate the hydrant booster and fire control room to face Banks Avenue. Consequently, the relocation of the approved fire hydrant system has resulted in minor modifications to the approved internal layouts of the Building A main lobby and apartments G26, G08 and G10.

The changes to the approved internal layout and unit mix are as follows:

- Approved number of bedrooms in Apartment G26 has decreased from 2 bedrooms to 1 bedroom, resulting in a decrease in unit size by 23.7sqm;
- Approved number of bedrooms in Apartment G08 has decreased from 3 bedrooms to 2 bedrooms, resulting in a decrease in unit size by 16.5sqm.
- Apartment G10 has increased in size from 87.3sqm to 98.3sq. This increase in size is due to the relocation of the Fire Control Room and slight increase in internal unit layout.
- Increase the lobby size in Building A, creation of a manager’s office and disabled bathroom.

3 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if:

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

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- The proposed modifications to Condition 1 have been requested by Fire and Rescue NSW;
- The proposed modifications are compliant with *Clause E1.3 of the Building Code of Australia (BCA) and Australian Standard (AS2419-2005)*;
- The proposed modifications will result in substantially the same development as originally approved under Development Consent No. 2017/1224;
- The proposed modifications do not alter the nature or intensity of the residential use and will not have any impacts on the nature, scale, location or form of the approved buildings;
- The revised design will not result in any changes to approved gross floor area and the approved building footprint is maintained along with the overall level of built form within the site;
- the proposed modifications to the building design, facilities improvements in the amenity and accessibility of the site, provides multiple access points from Banks Avenue into the site (in the case of emergency);
- The proposed modification will enable a change in the timing for the completion of various condition requirements to facilitate the phased occupation of the development;
- The proposed development retains the same use as the approved development and in this respect, there is no material change in the essence of the development; and
- The environmental impacts of the modified development are substantially the same as the approved development.

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With reference to the above points, the proposed modifications are consistent with the changes requested by Fire and Rescue NSW, do not alter the essential characteristics or substance of the approved development and granting of consent for the amendments would not result in a 'radical transformation' to the approved development.

Significantly, there will be no change to the approved use and function of the site: it will involve no intensification of use of the site and only a minor change in the approved internal layout. Other matters such as the setbacks, general layout and access remain the same as the approved design.

Overall, we consider that the proposed modifications will result in substantially the same development as the approved development under Development Consent No. 2017/1224;

4 Environmental Planning Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if:

“it is satisfied that the proposed modification is of minimal environmental impact”.

Under Section 4.55(4) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15(1) of the EP&A Act.

The following assessment considers the relevant matters under Section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Section 4.15(1)(a)(i): Environmental Planning Instruments

4.1.1 Botany Bay Local Environmental Plan 2013

Part 2 of the Botany Local Environmental Plan 2013 (LEP) identifies that the subject site is zoned R3 Medium Density Residential. The proposal is permitted in the zone subject to consent from the Council.

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

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

State Environmental Planning Policy No 65 – Quality of Residential Flat Buildings (SEPP 65) applies to the proposal. Included at **Annexure 2** is a Design Verification Statement.

Objective 4D-1 of the ADG requirements states that apartments are required to have the following minimum internal areas:

Apartment type	Minimum internal area
Studio	35m ²
1 bedroom	50m ²
2 bedroom	70m ²
3 bedroom	90m ²

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each

The application will result in minor modifications to the internal layout of the Building A main lobby and approved apartments G26, G08 and G10. The modified apartments meet the minimum internal area requirements; therefore, the proposal remains

compliant with the SEPP 65 Design Principles and does not vary from the ADG requirements.

4.1.3 State Environmental Planning Policy (Building Sustainability Index: Basix) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) came into force on 1 July 2004 and has been progressively implemented to the various types of residential development.

A BASIX Certificate was submitted as part of the original approval and demonstrates that the proposed development meets the required water, thermal comfort and energy targets.

The minor amendments do not change the BASIX requirements from the original approval.

4.2 Section 4.15(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site.

4.3 Section 4.15(1)(a)(iii): Development Control Plans

4.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 applies to the subject site. There are no provisions of the DCP that are particularly relevant in the assessment of the proposed amendments.

4.4 Section 4.15(1)(a)(iiia): Planning Agreements

Not applicable.

4.5 Section 4.15(1)(a)(iv): Regulations

The Section 4.55(1A) Application has been made in accordance with the requirements contained in *Clause 145 - Compliance with development consent and Building Code of Australia* of the *Environmental Planning and Assessment Regulation 2000*. The justification associated with the modified condition is provided below:

Fire and Rescue NSW have reviewed the architectural plans approved under Condition 1 in Development Consent No. 2017/1224 and have identified that the fire hydrant system proposed for the subject development is not compliant with *Clause E1.3 of the Building Code of Australia (BCA) and Australian Standard (AS2419-2005)*.

Fire and Rescue NSW have identified in BCA Report attached at **Annexure 3**, that the location of the fire hydrant booster assembly would not be supported, unless the building

design was modified, allowed for suitable access to the fire hydrant booster assembly and would not hinder the efficacy of fire-fighting operational procedures.

In response to the advice provided by Fire and Rescue NSW, the hydrant booster and fire control rooms shall be relocated to face Banks Avenue with a Fire Resistance Level (FRL) of 90 minutes. Figure 1 below shows the location of the fire hydrant booster as requires by Fire and Rescue NSW.

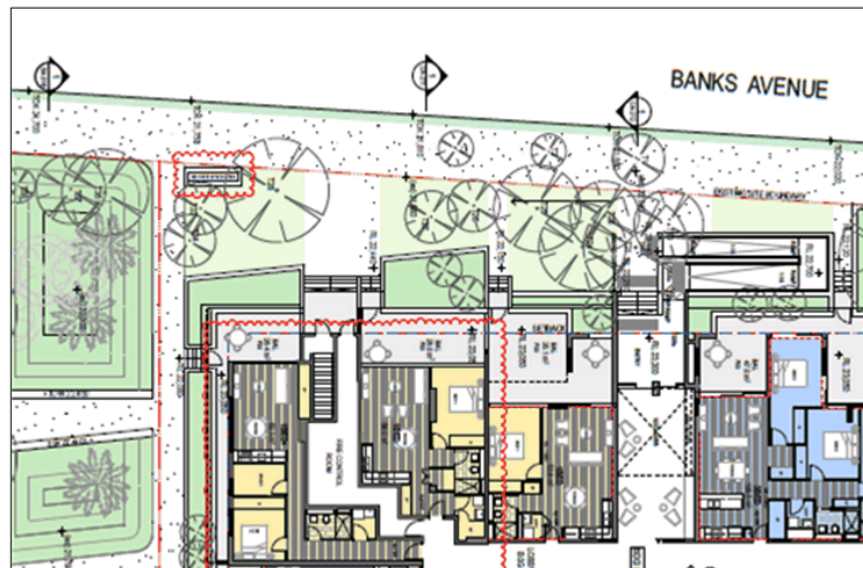


Figure 1: Fire hydrant booster location

In summary, the proposed changes to the building design will facilitate improvements in the amenity and accessibility of the site, provides multiple access points from Banks Avenue into the site (in the case of emergency) complies with *Clause E1.3 of the Building Code of Australia (BCA) and Australian Standard (AS2419-2005)* and is consistent with the advice provided by Fire and Rescue NSW.

A copy of the amendments required by Fire and Rescue NSW is contained on pages 59-62 in the BCA Report attached at **Annexure 3**.

In conclusion, the architectural plans approved under Condition 1 in Development Consent No. 2017/1224 are required to be changed to reflect the updated Architectural Drawings that accompany this Section 4.55 (1A) application in **Annexure 1**.

4.6 Section 4.15(1)(b): Likely Impacts

There are no impacts that will result from the proposed amendments. The changes are generally minor and will not have any amenity impacts on the existing surrounding buildings or other parts of the existing approved development.

4.7 Section 4.15(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

4.8 Section 4.15(1)(d): Submissions

Should notification be required for the proposal, Council will consider submissions at the close of the notification period.

4.9 Section 4.15(1)(e): The Public Interest

The Section 4.55(1A) Application is not considered to result in any additional impacts to the amenity of the neighbouring properties. Accordingly, we will consider any submissions Council may receive during the notification period.

5 Conclusion

Under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act), this application seeks to modify the following architectural plans approved under Condition 1 in Development Consent No. 2017/1224:

PLANS	AUTHOR	DATED/RECEIVED BY COUNCIL
DA-102 – Basement 01 Plan – Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
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DA-201 – East Elevation – Rev R5	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-202 – North Elevation – Rev R3	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-203 – West Elevation – Rev R3	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
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DA-410 – Solar – Ground to L3 Plan – Rev 2	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA- 420 – Ventilation – Ground to L3 Plan – Rev R2	Fox Johnston	Dated 9 November 2017; Received 27 November 2017

A comprehensive assessment of the proposed modifications has been made against all of the applicable environmental planning provisions. The development has been found to be compliant in relation to all relevant planning controls in terms of standards, underlying objectives and merit considerations.

In accordance with Section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- The consent, as proposed to be modified, is substantially the same development as that originally approved;
- A suitable and desirable use for the site which satisfies the relevant heads of consideration under Section 4.15 (1) of the EP&A Act;
- In accordance with the aims, objectives and provisions of the applicable planning instruments and controls; and

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- An appropriate and acceptable development that will not generate any unreasonable environmental impacts over and above that which was originally approved by Council.

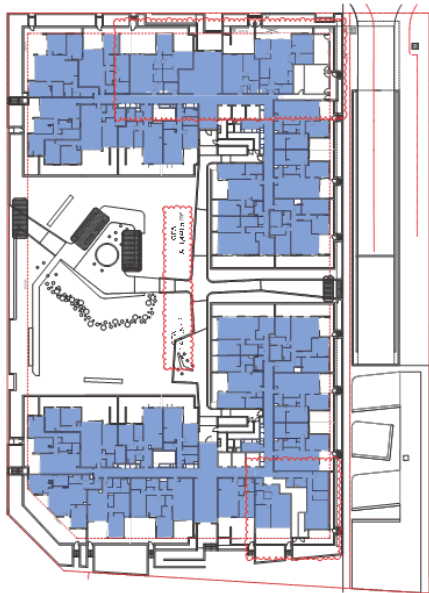
The proposal has properly responded to all relevant matters for consideration under the Environmental Planning and Assessment Act, and the accompanying Regulation. Accordingly, it is considered that the proposed Section 4.55(1A) modification is worthy of Council support.

Annexure 1: Revised Architectural Drawings

Annexure 2: Design Verification Statement

Annexure 3: BCA Report

<p>ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE. THIS INFORMATION IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE.</p> <p>FOIA b 7 - C</p>		<p>DATE: 12/02/2019 TIME: 10:00 AM DRAWN BY: [Name] CHECKED BY: [Name] SCALE: 1/8" = 1'-0"</p>	<p>MERITON CIVIL & ARCHITECTURAL 1000 BAYVIEW BLVD SUITE 100 BAYVIEW, NJ 07002 TEL: 201-261-1000 FAX: 201-261-1001 WWW.MERITON.COM</p>	<p>PROJECT: 130-156 Baymont Ref Renovation SHEET: 101</p>	<p>GFA - Ground to L3 130,156 sq ft 130,156 sq ft 130,156 sq ft</p>	<p>DATE: 12/02/2019 TIME: 10:00 AM DRAWN BY: [Name] CHECKED BY: [Name] SCALE: 1/8" = 1'-0"</p>	<p>TYPE: DA-400 R2 DEVELOPMENT APPLICATION NOT FOR CONSTRUCTION</p>



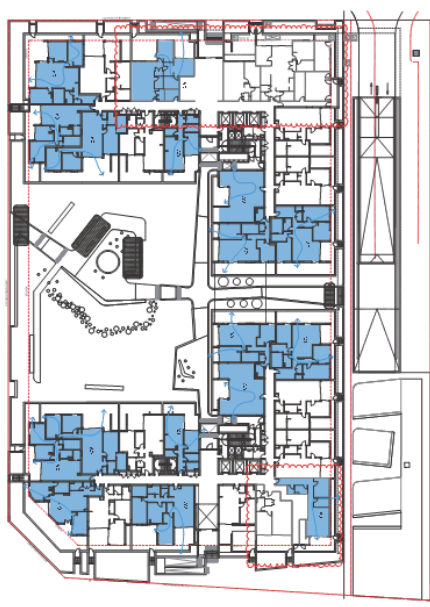
<p>ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE. AUTHORITY: 50 CFR 17.104. THIS INFORMATION IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE. AUTHORITY: 50 CFR 17.104.</p> <p>FOR DISPOSITION</p>	<p>REVISIONS TO THIS DOCUMENT SHALL BE INDICATED BY A CIRCLED NUMBER AND DATE. THE ORIGINAL DOCUMENT SHALL BE KEPT FOR RECORD. ALL REVISIONS SHALL BE APPROVED BY THE PROJECT MANAGER AND THE DESIGNER. THE DESIGNER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE USER SHALL BE RESPONSIBLE FOR THE USE OF THE INFORMATION CONTAINED HEREIN.</p>	<p>DATE: 12/02/2019 DRAWN BY: [Name] CHECKED BY: [Name] PROJECT NO: [Number] SHEET NO: [Number]</p>	<p>MERITON</p> <p>130-150 Burnham Rd Papeete Compliance Diagram Ventilation - Ground to L3</p>	<p>PROJECT NO: [Number] SHEET NO: [Number] DATE: 12/02/2019 DRAWN BY: [Name] CHECKED BY: [Name]</p>	<p>TYPE: DA-420 R2 DEVELOPMENT APPLICATION NOT FOR CONSTRUCTION</p>
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Level 1



Level 3



Ground



Level 2

<p>ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE. THIS INFORMATION IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE.</p> <p>FOR DISSEM ONLY</p>	<p>REVISIONS TO THIS DOCUMENT ARE TO BE MADE BY THE DESIGNER. THE DESIGNER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE DESIGNER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.</p>	<p>DATE: 12/02/2019 DRAWN BY: [Name] CHECKED BY: [Name] SCALE: 1/8" = 1'-0"</p>	<p>MERITON</p> <p>130-156 Burnhamton Rd Paganwood</p>	<p>PROJECT: 130-156 Burnhamton Rd Paganwood COMPLIANCE DIAGRAM Sohr - Ground to 3</p>	<p>DATE: 12/02/2019 DRAWN BY: [Name] CHECKED BY: [Name] SCALE: 1/8" = 1'-0"</p>	<p>TYPE: DA - 410 R2 DEVELOPMENT APPLICATION NOT FOR CONSTRUCTION</p>
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Bayside Local Planning Panel

12/02/2019

Item No	6.5
Application Type	Modification to an approved residential flat building
Application No	DA-2017/1224/3
Lodgement Date	06/11/2018
Property	DA-2017/1224/4 - 130-150 Bunnerong Road Eastgardens
Ward	Port Botany
Owner	Karimbla Properties (No. 39) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify or delete Condition Nos. 36(e), 39(j), 79, 81, 82, 97 and 106 which relates to stormwater and landscaping conditions
No. of Submissions	One (1) submission
Cost of Development	0
Report by	Michael McCabe, Director of City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel APPROVE the Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify or delete Condition Nos. 36(e), 39(j), 79, 81, 82, 97 and 106 which relates to stormwater and landscaping conditions at 130-150 Bunnerong Road Eastgardens as follows:
 - a. Condition No. 36(e) is to be modified relating to rainwater tank requirements;
 - b. Condition No. 39(j) is to be deleted relating to raised landscape concrete edges;
 - c. Condition No. 79 is to be deleted which relates to the water tank size;
 - d. Condition No. 81 is to be modified relating to specific paving type/locations;
 - e. Condition No. 82 is to be deleted relating to raised landscape concrete edges;
 - f. Condition No. 97 is to be deleted relating to flood risk management plan; and
 - g. Condition No. 106 is to be modified relating to public domain and footpath area.
 2. That any objectors be notified of the determination 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-2017/1224/04
Date of Receipt:	6 November 2018
Property:	130-150 Bunnerong Road Eastgardens Lot 21 DP 1242288 (formerly Lot 2 in DP 1187426)
Owners:	Karimbla Properties (No. 39) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to modify or delete Condition Nos. 36(e), 39(j), 79, 81, 82, 97 and 106 which relates to stormwater and landscaping conditions
Recommendation:	Approval, subject to recommended conditions of consent.
Value:	N/A
No. of submissions:	One (1) objection
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	18 January 2019

Key Issues

Development Application No. 2017/1224 was approved by the Sydney Eastern City Planning Panel on 2 August 2018 for the integrated development application for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys with approval for 356 apartments.

Bayside Council received the subject Section 4.55(1A) Application No. 2017/1224/04 on 6 November 2018 to modify Development Consent No. 2017/1224 to modify/delete condition nos. 36(e), 39(j), 79, 81, 82, 97 and 106.

Due to the nature of the proposed modifications, the application was not required to be placed on public notification as stipulated within Part 2 of the BBDCP 2013.

The proposal originally included Condition No. 39(i) to be deleted from the consent. Council reviewed the condition and have advised the applicant that the condition will be retained therefore consent was provided by the applicant to remove the condition from the assessment of the application.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to the modifications to the conditions of consent.

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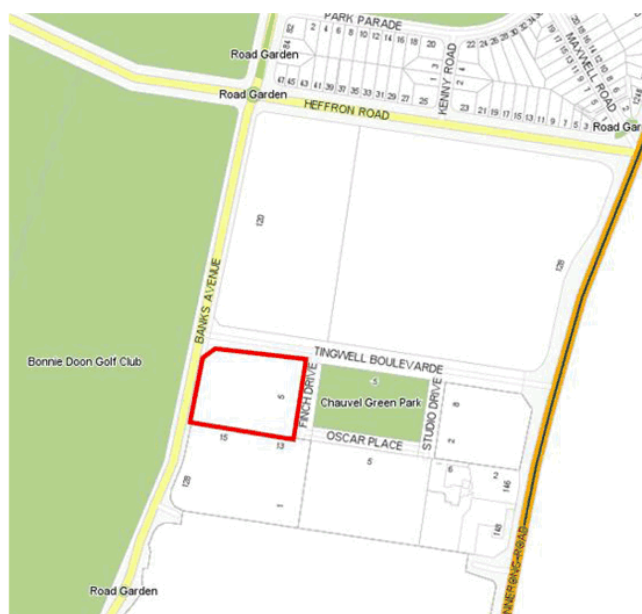


Figure 1. Locality Plan

Approved Development

- DA-2017/1224- The proposed modifications are carried out on UB3 which the SECPP approved on 2 August 2018 for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development comprised of 356 units and a GFA/FSR of 36,879.1sqm (3.9:1).

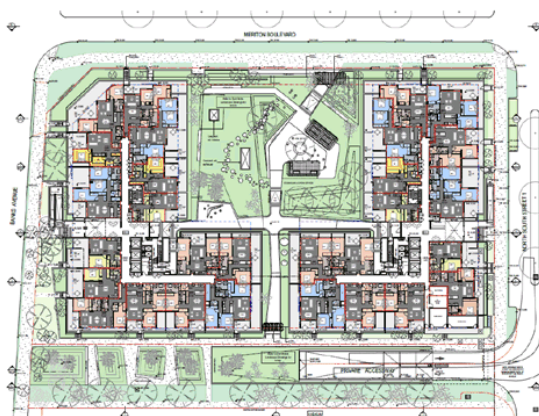


Figure 2. Approved Ground Floor Plan

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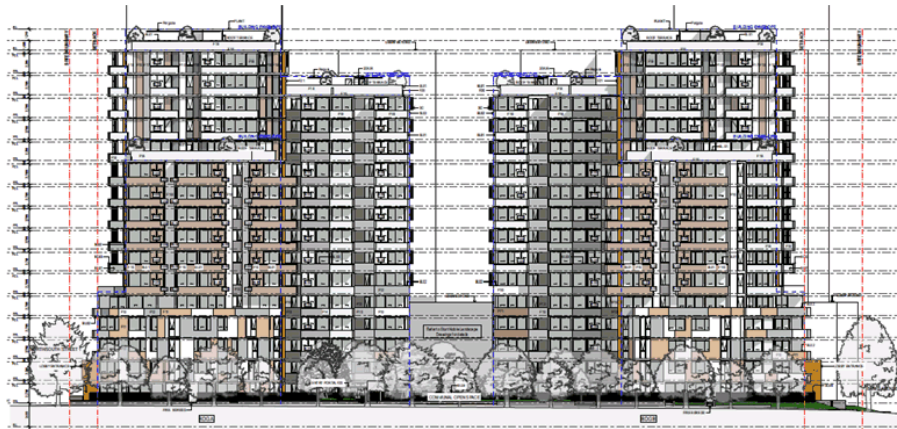


Figure 3. Approved Northern Elevation



Figure 4. Approved Southern Elevation



Figure 5. Approved Eastern Elevation

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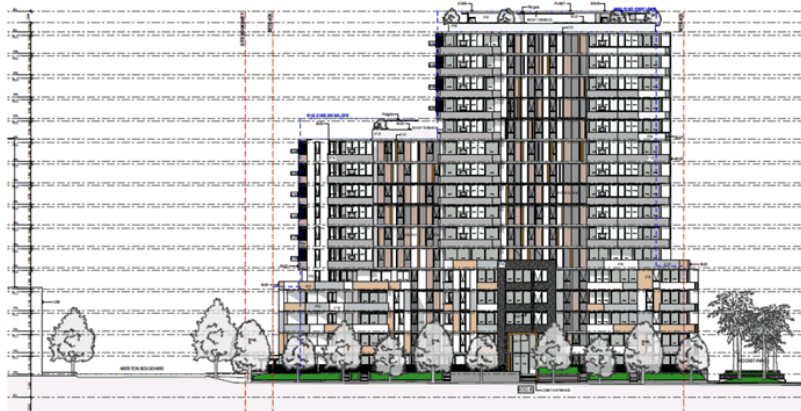


Figure 6. Approved Western Elevation

- DA-2017/1224/02- On 9 October 2018, the application was approved under delegation to amend Condition Nos. 24 and 25 to reflect amended S.7.11 Contributions.
- DA-2017/1224/03- Modification Application is currently under assessment with Council and is scheduled to be determined on 12 February 2018 for modifications to the location of the fire control room and hydrant booster and minor unit reconfiguration.

Description and Assessment of the Proposed S.4.55 (1A) Modifications

The proposed development seeks consent to amend a number of conditions that relate to landscaping and stormwater related matters. The conditions to be modified/deleted are provided below with an assessment on the changes:

Condition No. 36(e)

Condition No. 36(e) relates to the requirement of rainwater tanks and the re-use of the water and details to be provided prior to the issue of the Construction Certificate. The wording of the condition is as follows:

36. (e) "A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site with a combined catchment of at least the entire roof area of the development, only roof water shall be directed to the rainwater tank(s). In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) shall service the toilets, clothes washers and any outdoor irrigation/taps for landscaping within the development; and

The applicant seeks to modify the condition to delete the last sentence of the paragraph and the approved BASIX Certificate does not include/require the rainwater tank to service toilets or clothes washers. The condition is therefore inconsistent with the BASIX requirement. The condition was reviewed by Council's Development Engineer who had no issues with the proposed changes and the modification is to be supported subject to the rainwater tank to service the outdoor irrigation and taps for landscaping within the development. Therefore the condition is to be modified as follows:

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36. (e) "A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site with a combined catchment of at least the entire roof area of the development, only roof water shall be directed to the rainwater tank(s). In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) shall service ~~the toilets, clothes washers and~~ any outdoor irrigation/taps for landscaping within the development;

Condition No. 39(j)

Condition No. 39(j) relates to the information that is required to be submitted prior to the issue of the construction certificate relating to raised landscape concrete edges around the landscaped area to prevent mulch and soil from spilling out. The wording of the condition is as follows:

39. (j) "A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable".

The applicant seeks to delete the word 'raised' from the first sentence. Their justification for amending the condition is as follows:

The condition requires concrete edges to be installed around landscape areas. This condition does not specify particular landscaped areas, nor does it take into consideration alternative design solutions for retaining soil from onto adjoining pavements.

It is stated in Councils DCP 2013 Part 10 Appendix Landscaping Guidelines for Development, under Chapter 4, Clause 4.2 Edges and Retaining Walls to Planter Beds and Landscaped Areas that "hard edges must be a minimum of 150mm in height above adjoining surfaces to prevent the encroachment of vehicles into planter beds". Based on the requirements of the DCP the purpose of a raised concrete edge is to prevent the encroachment of vehicles into planter beds.

Therefore, we request to remove the following wording from the condition a "raised concrete edge" and replace the wording with a "concrete edge" as the wording of the condition is contrary to Council's Landscaping Development standards.

The condition has been reviewed by Council's Landscape Architect who is happy to delete the condition in its entirety therefore rather than modifying the condition, removal is accepted.

Condition No. 79

Condition No. 79 relates to the requirement of a 25,000/10,000 Litre rainwater tank to be provided within the development. The condition is worded as follows:

79. "For the purposes of irrigating the landscaped areas, a water tank, minimum 25,000 10,000 litres in size but ideally equivalent to the building roof area to be drained, shall be installed on the property for stormwater collection and re-use".

The applicant seeks to delete the condition as condition no. 36(e) already requires a rainwater tank to be provided on the site therefore the subject condition is a duplicate. The condition

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was reviewed by Council's Development Engineer who had no objections to the removal of the condition. The proposed modification is supported.

Condition No. 81

Condition No. 81 relates to the type of paving used for internal access driveways, parking area and pedestrian walkways. The condition is worded as follows:

81. "All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt".

The applicant seeks to replace the wording of 'unit paved (interlocking pavers)' with 'use washed aggregate concrete'. The applicant's justification for the modification is as follows:

The condition does not consider the suitability of interlocking pavers in the context of this development. Interlocking pavers are primarily used as a decorative material and are known to become uneven and unstable overtime; sink; fade in colour; retain water and grow weed and moss, which is unsuitable for high rise development.

This condition requires all internal access driveways, parking areas and pedestrian walkways to be paved. The condition does not consider basement car parking, localised water storage, regular car/pedestrian movement and ongoing maintenance after occupation.

It should be noted that we have not been required to provide interlocking pavers in other "Pagewood Green" Sites. Interlocking pavers are suitable for flat driveways associated with dwelling houses; in the case of this development the slope of the driveway is not conducive to pavers.

Therefore, we request Condition 81 be modified to remove the requirement for interlocking pavers and propose to use washed aggregate concrete as an alternate material for paved areas which has been consistently used across other completed "Pagewood Green" sites. This surface of this material is strong, skid-resistant, wears very well, requires little maintenance, blends well with other decorative materials and handles all kinds of extreme weather.

Council generally agrees with the justification provided above particularly as there has been a consistent approach to paving across the entire site. Therefore the condition is to be modified as follows:

81. "All internal access driveways, parking areas and pedestrian walkways use washed aggregate concrete shall be unit paved (interlocking pavers). Large areas of asphalt".

Condition No. 82

Condition No. 82 relates to the raised landscape concrete edges that are required to be provided within the landscape areas. The condition is worded as follows:

82. "A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable."

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This condition is a duplicate of Condition No. 39(j). As Council's Landscape Architect does not require Condition No. 39(j) and has recommended for its removal, there is no issue in removing Condition No. 82.

Condition No. 97

Condition No. 97 relates to the requirement of a flood risk management plan to be provided prior to the issue of the Occupation Certificate. The condition is worded as follows:

97. "Prior to the issue of the Occupation Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. Additionally, the plan must make provision for the following:

- a) Recommendations and precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and*
- b) A flood evacuation strategy for occupants, and*
- c) Indication of the flood levels present on the site and surrounding streets.*

The plan shall be located and fixed in a suitable location that can be accessed by all occupants to the satisfaction of the Principal certifier."

The applicant provided the following justification for the removal of the condition:

Each of the urban block consents obtained to date in "Pagewood Green" have not required a Flood Risk Management Plan prepared by a qualified practicing Civil Engineer to be provided.

To ensure consistency with the conditions in the other Urban Blocks approvals (UB5W DA16/18, UB5E DA16/143 and UB4 DA2017/1022) we request that Condition 97 be deleted from the Consent.

The condition was assessed by Council's Development Engineer who has no issue with the deletion of the condition as the condition is not necessary as the flooding that affects the site is minor ponding in the adjoining road reserves. There is not a significant enough risk to require a thorough flood risk management plan for the development. Therefore the condition is supported for its deletion.

Condition No. 106

Condition No. 106 relates to the upgrading of the public domain area with new street furniture, paving, and street planting. The condition is worded as follows:

*106. "The public domain and Council footpath area shall be upgraded with approved new paving, street furniture and street tree planting, in accordance with **Approved Public Domain Report and Landscape Plans in DA2016/65**, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved Sturt Noble Associates rev B and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate."*

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The applicant seeks to remove the word 'new' within the first line of the paragraph. The applicant provided the following justification for the modification of the condition:

The condition requires new public domain improvements that are inconsistent with the approved Public Domain DA2016/65. The condition is to be amended to reflect the Public Domain DA approval and the approved Landscape Plan listed in Condition 1 of this approval.

Both Council's Development Engineer and Public Domain Engineer has no issue with modifying the condition as requested by the applicant. Therefore the condition is to be supported and modified as follows:

106. "The public domain and Council footpath area shall be upgraded with approved ~~new~~ paving, street furniture and street tree planting, in accordance with Approved Public Domain Report and Landscape Plans in DA2016/65, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved Sturt Noble Associates rev B and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate."

Statutory Considerations

SECTION 4.55(1A) CONSIDERATIONS

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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

The Section 4.55(1A) modification application relates to amendments to the approved conditions relating to landscaping and stormwater, and as such, the modifications will result in substantially the same development as approved under DA-2017/1224 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates modifications to the conditions of consent relating to landscaping and stormwater, therefore the modification application is substantially the same development to which consent was originally granted.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the***

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Control Plan 2013 and no changes to the controls and outcomes assessed under DA-2017/1224.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed modifications relates to the conditions of consent involving landscaping and stormwater and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2017/1224.

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

The suitability of the site was addressed in the original approval of DA-2017/1224.

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

One (1) objection was received to this application even though the application was not subject to public notification. The key points that were raised as part of the objection are summarised below:

- *Inconsistencies with the Stage 1 consent, increase in traffic generation and impact onto the local street network and reduction in car parking spaces.*

Objector's comments: Concerns are raised that the entire site is subject to a proposal to increase the amount of units and density on the site, reduce the number of car parking spaces across the site which will result in residents of the units to park on the surrounding neighbourhood streets. Concern is also raised in regards to traffic generation from the development.

Council's comments: The submission addresses a separate modification application under DA-14/96 which relates to modifications to the Stage 1 consent. The subject application relates to modifications to the landscaping and stormwater conditions therefore the points that were raised as part of the submission do not apply to this application and are outside the scope of assessment. The objectors' submission was considered under DA-14/96/02 which was determined by the Sydney Eastern City Planning Panel last year.

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

The proposed amendments will have no significant adverse impact upon the public interest.

Conclusion

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Section 4.55(1A) Application No. 2017/1224/04 on 6 November 2018 to modify Development Consent No. 2017/1224 to modify or delete Condition Nos. 36(e), 39(j), 79, 81, 82, 97 and 106 which relates to stormwater and landscaping conditions at 130-150 Bunnerong Road Eastgardens.

The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is permissible within the B4 – Mixed Use zone and the R3 – Medium Density Residential zone and is considered to result in a development which is suitable in the context. The proposed modification is consistent and substantially the same with the approved development on the site. Therefore, the application is recommended for approval, subject to the conditions of consent in the attached schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 130-150 Bunnerong Road, Eastgardens

DA No: 2017/1224/04

Schedule 1 – Conditions of Consent

GENERAL CONDITIONS

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

Plans	Author	Dated / Received by Council
DA-010- Site Analysis Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-011- Site Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 27 November 2017
DA-100- Basement 03 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-101- Basement 02 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-102- Basement 01 Plan- Rev R1	Fox Johnston	Dated 29 September 2017; Received 11 December 2017
DA-103- Ground Floor Plan- Rev R5	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-104- Level 1 Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-105- Level 2 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-106- Level 3 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-107- Level 4 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-108- Level 5 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018

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DA-109- Levels 6-10 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-110- Level 11 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-111- Level 12 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-112- Level 13 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-113- Level 14 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-114- Level 15 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-115- Roof Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-200- South Elevation Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-201- East Elevation Plan- Rev R5	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-202- North Elevation Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-203- West Elevation Plan- Rev R3	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-210- Section 1 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-211- Section 2 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-212- Section 3 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-213- Section 4 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-214- Section 5 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-215- Section 6 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-216- Section 7 Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
DA-399- GFA B3- Ground Plan- Rev R1	Meriton Property Services Pty Ltd	Dated 16 July 2018; Received 17 July 2018
DA-400- GFA Level 1 to L4 Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-401- GFA L5 to L12 Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-402- GFA L13 to Roof Plan- Rev R2	Fox Johnston	Dated 16 July 2018; Received 17 July 2018
DA-410- Solar- Ground to L3 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-411- Solar- L4 to L11 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-412- Solar- L12 to L15 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-420- Ventilation- Ground to L3 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018

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DA-421- Ventilation- L4 to L11 Plan- Rev R2	Fox Johnston	Dated 3 May 2018; Received 8 May 2018
DA-422- Ventilation- L9 to L14 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-423- Ventilation- L15 Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-430- Communal Open Space Shadow Diagram Plan- Rev R1	Fox Johnston	Dated 9 November 2017; Received 8 May 2018
DA-431- Deep Soil and COS Calculation Diagram Plan- Rev R2	Fox Johnston	Dated 24 April 2018; Received 8 May 2018
Privacy and screening- Rev R1	Fox Johnston	Dated May 2018; Received 17 May 2018
SKT003- Turning Paths- main basement ramp access- Issue A	ARUP	Dated 30 August 2017; Received 8 May 2018
SKT004- Lower basement circulation- Issue A	ARUP	Dated 30 August 2017; Received 8 May 2018
DA-1711-03- Rev B- Landscape Masterplan	Sturt Noble Associates	Dated 28 September 2017; Received 27 November 2018
DA-1711-04- Rev B- Ground Floor- Communal courtyard		Dated 28 September 2017; Received 27 November 2018
DA-1711-05- Rev B- Ground Floor- Public Open Space		Dated 28 September 2017; Received 27 November 2018
DA-1711-06- Rev B- West Block- Level 14 terrace and Level 11 terrace below		Dated 28 September 2017; Received 27 November 2018
DA-1711-07- Rev B- East Block- Level 14 terrace and Level 11 terrace below		Dated 28 September 2017; Received 27 November 2018
DA-1711-08- Rev B- East and West Block- Level 16 roof terraces		Dated 28 September 2017; Received 27 November 2018
DA-1711-09- Rev B- Design Elements		Dated 28 September 2017; Received 27 November 2018
DA-1711-10- Rev B- Indicative Planting		Dated 28 September 2017; Received 27 November 2018

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-040	Wall to Wall	Dated 28 September 2017; Received 27 November 2017
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Development Application Acoustic Report Ref: 20171309.1/1611A/R1/TA	Acoustic Logic	Dated 16 November 2017; Received 27 November 2017
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 16 October 2017; Received 27 November 2017

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Thermal Comfort and BASIX Assessment Ref: 17-0216 Rev B	Efficient Living	Dated 14 November 2017; Received 27 November 2017
Building Code of Australia Compliance Assessment Report Ref: 1423-110 Rev 01	AED Group	Dated 17 November 2017; Received 27 November 2017
Construction Management Plan- Rev 1	Meriton Property Services Pty Ltd	Dated 27 October 2017; Received 27 November 2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 11 October 2017; Received 27 November 2017
SEPP 65 Design Statement and Apartment Design Guide	Fox Johnston	Dated November 2017; Received 27 November 2017
SEPP 55 Requirements	Consulting Earth Scientists	Dated 10 April 2014; Received 27 November 2017
Geotechnical Investigation Report Ref: GEOTLCOV24928AE-AC	Coffey Geotechnics Pty Ltd	Dated 5 February 2016; Received 27 November 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 17 November 2017; Received 27 November 2017
Site Surveys	JBW Surveyors Pty Ltd	Dated 16 September 2014; Received 27 November 2017
UB3 Solar Reflectivity and Glare Assessment Ref: 610.13932-R11	SLR	Dated 16 November 2017; Received 27 November 2017
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 27 November 2017
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated October 2017; Received 8 May 2018
Waste Management Plan Rev B	Elephants Foot Waste Compactors Pty Ltd	Dated 17 October 2017; Received 27 November 2017
Qualitative Wind Assessment Ref: 610.13932.R10	SLR	Dated 12 October 2017; Received 27 November 2017
Clause 4.6 variation to vary height and FSR development standard	Meriton Property Services Pty Ltd	Dated 23 October 2017; Received 17 May 2017
Lift Traffic Analysis Report	KONE	Dated 7 May 2018; Received 17 May 2018
Addendum to traffic report	ARUP	Dated 10 May 2018; Received 17 May 2018
Swept/turning path report	ARUP	Dated 21 March 2018; Received 8 May 2018
Cover letter addressing RFI	Meriton Property Services Pty Ltd	Dated 8 May 2018; Received 8 May 2018
Civil Works Package- UB3	At&I	
13-155- 5600-01-Civil-DA Report/Stormwater Report	At&I	Dated September 2017; Received 8 May 2018
Stormwater Management Report- Rev 9	Aurecon	Dated 19 December 2011; Received 8 May 2018
Stage 2 Traffic and Transport Report	ARUP	Dated 30 August 2017; Received 8 May 2018

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Traffic Letter	ARUP	Dated 21 November 2017; Received 8 May 2018
Apartment Schedule	Fox Johnston	Received 8 May 2018

- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
 - (a) Note:

Relevant BASIX Certificate means:

 - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

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- (a) Service Alterations – All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the applicant's expense.
- (b) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.
- (c) All telecommunication and utility services are to be placed underground along the Street frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of telecommunication and utility services works.
- (d) Street trees are to be provided in accordance with the Botany Street Tree Master Plan 2014.
- (e) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.
- (f) All telecommunication and utility services are to be placed underground along the flowing streets: The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

- 8 The following conditions are imposed by **Ausgrid**:
 - (a) It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

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- (i) The existing network can support the expected electrical load of the development
- (ii) A substation may be required on-site, either a pad mount kiosk or chamber style and;
- (iii) site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

- (b) The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.
- (c) All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines.
- (d) There are existing overhead electricity network assets in Banks Ave. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au

Based on the design of the development provided, it is expected that the "as constructed" minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

- (e) There are existing underground electricity network assets in Banks Ave. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

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- 9 The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:
- (a) The building must not exceed a maximum height of 91 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
 - (b) The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
 - (c) Separate approval must be sought under the Regulations for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - (d) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.
- 10 The following conditions are imposed by **Water NSW**:
- (a) A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
 - (b) An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
 - (c) If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
 - (d) Water NSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).

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- (e) If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.
- 11 The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:
- (a) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- (b) All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on Bunnerong Road.
- (c) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
- (d) Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- (e) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- (f) All works and regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
- 12 The following conditions are imposed by **Sydney Water**:
- (a) Sydney Water Servicing
- A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and

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buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

(b) Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. The Sydney Water Tap in online self-service replaces our Quick Check Agents as of 30 November 2015.

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

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Changes to an existing service or asset e.g. relocating or moving an asset

Sydney Waters Tap In online service is available at:

<http://sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 13 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
- 14 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other

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Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - (c) Permit to install temporary ground anchors in public land,
 - (d) Permit to discharge ground water to Council's stormwater drainage system,
 - (e) Permit for roads and footways occupancy (long term/ short term),
 - (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - (g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - (h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - (i) Permit to use any part of Council's road reserve or other Council lands.
- 15 Erosion and sediment control devices shall be installed and in function prior to the commencement of any construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 16 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

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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.
- 17 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 18 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 19 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 20 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 21 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.

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

- 22 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 23 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
- (a) 1 Bedroom apartments 6m³
- (b) 2 Bedroom apartments 8m³

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- (c) 3 Bedroom apartments 10m³

At least 50% of the required storage is to be located within the apartment.

24 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

- (a) Development Control \$13,583.00
- (b) Footpath Crossing Deposit \$314,700.00 (See below)
- (c) Section 7.11 Contributions ~~\$7,720,000.00~~ \$7,120,000.00 (See below)
- (d) Long Service Levy See below
- (e) Tree Maintenance Bond \$7,500.00 (See below)
- (f) Street Tree Planting Bond \$7,500.00 (See below)
- (g) Public Works Defect Liability Bond \$25,000.00 (See below)

(Modified via DA-2017/1224/02)

25 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of ~~\$7,720,000.00~~ \$7,120,000.00 in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:

- a) Community Facilities ~~\$617,600.00~~ \$582,829.10
- b) Recreation Facilities ~~\$6,484,800.00~~ \$6,013,136.89
- c) Transport Management ~~\$540,400.00~~ \$472,191.93
- d) Administration ~~\$77,200.00~~ \$51,842.08

The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.

(Modified via DA-2017/1224/02)

26 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

27 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$314,700.00 (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.

28 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the

roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

- 29 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - (h) Proposed protection for Council and adjoining properties, and
 - (i) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - (j) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - (k) The methodology to control dust on site.
- 30 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services). The plan shall:

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- (a) be prepared by a RMS accredited consultant,
- (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- (c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

- 31 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 32 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) A suitably qualified engineer shall design and certify the driveway access from Finch Drive to the development to ensure that stormwater from the road reserve is not directed into the basement structure, a suitable crest shall be provided to ensure flows are not directed into the basement structure, and
 - (c) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 33 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,

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- (b) All service vehicles shall enter the property front in front out,
 - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 34 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) At least fourteen (14) accessible car parking spaces shall be provided and clearly marked as specified in Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - (b) All Accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.
- 35 Prior to the issue of the relevant Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - (b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (i) The additional load on the system, and
 - (ii) The relocation and/or adjustment of the services affected by the construction.
 - (c) The Ausgrid lighting poles along Banks Avenue, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
 - (d) All above ground utilities on Banks Avenue shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
 - (e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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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.

- 36 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines' (SMTG), AS/NZS 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- (a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- (c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- (d) 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
- (e) A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site with a combined catchment of at least the entire roof area of the development, only roof water shall be directed to the rainwater tank(s). In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) shall ~~service the toilets, clothes washers and~~ any outdoor irrigation/taps for landscaping within the development; **(DA-2017/1224/04)**
- (f) Basement drainage shall be provided for the collection and removal of stormwater from all basement levels. The design is to comply with Botany DCP Part 10 Section 7 and AS/NZS 3500.3:2015, details of the pump out system shall be shown on the stormwater management plans, and

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- (g) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system, and
- (h) All surface runoff from parking facilities and access ways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted to the Principal Certifier, and
- (i) All electricity supply provided for all pump systems proposed for the development shall be backed up by an external power source in the event of a power outage, and
- (j) Detailed calculations including computer modelling supporting the proposal.

All plans and documentation shall be certified by a suitably qualified engineer as specified in Botany DCP Part 10 Section 2.1.

- 37 Prior to the issue of the relevant Construction Certificate, at least two (2) car wash bays are to be provided. One of the additional residential spaces can be utilised for this purpose. A tap shall be provided along with a sign fixed to the wall saying 'Visitor Car Space and Car Wash Bay'. The car wash bay must be bunded in accordance with AS1940 – 1993 and AS/NZS 4452 – 1997 with direct connection to the sewer in accordance with a Sydney Water trade waste agreement.
- 38 Prior to the issue of the relevant Construction Certificate, a civil design plan must be prepared by a suitably qualified engineer and be approved by Bayside Council's Public Domain department for all frontage works that are required to be constructed within the public domain. A Public Domain Frontage Works application shall be submitted to Council for the works to be assessed, approved and a design brief provided, the form details can be found on the Bayside Council website. The frontage works shall be in accordance with any Council town centre plans, standard design drawings and specifications. Preliminary consultation with Council public domain department is highly recommended.
- 39 Prior to the issue of the relevant construction certificate, a Public Domain frontage landscape plan shall be submitted to Bayside Council. Landscape improvements plan shall be submitted and approved by Bayside Council's landscape architect. The plans shall include street planting, footpath paving, street tree pit treatments and tree guards, street furniture such as seats, bollards, bins, bike racks, and ground level soft landscaping treatment. The public domain landscape plans shall include the following:
- (a) Banks Avenue shall be planted with *Araucaria comlumnaris* (Cook Pines), minimum height to be installed five 5 meters high.
 - (b) Tingwell Boulevard shall be planted with *Angophora costata*, (Smooth-barked Apple)
 - (c) Finch Drive shall be planted with *Eucalyptus botryoides*, (Bangalay)
 - (d) Minimum pot size supplied to be planted for street trees is 400 Litres.
 - (e) Trees shall be sourced from a reputable supplier that grows to NATSPEC.
 - (f) A Dial-Before-You-Dig enquiry is required prior to all tree planting.

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- (g) Tree pits shall be backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP, and have installed a RootRain Civic for an effective tree watering.
- (h) The Applicant is required to obtain a Council inspection of new trees prior to the planting to ensure plant stock is suitable and post planting prior to the maintenance period commencing.
- (i) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling.
- (j) ~~**A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable. (DA-2017/1224/04)**~~
- (k) All street verges will be treated with groundcovers, no turf unless approved by council.
- (l) As a minimum, shrubs shall be planted across the front boundary and down both side boundaries to the building alignment. Plants shall be predominantly native, have low water requirements and be suited to the local soils.
- (m) The street tree planting to all internal roads (Tingwell Boulevard and Finch Drive) are to use the Citygreen Stratavault system of planting to be incorporated into the updated Landscape Plans and documentation.
- 40 Prior to the issue of the relevant Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of RL 22.50m AHD All internal electrical switches, power points or similar utilities liable to flood damage shall be set at or above RL 22.50m AHD. Details and certification shall be provided to the Principal Certifier for Assessment and approval.
- 41 If required, the subsurface structure shall be designed with a water proof retention system (i.e. tanking and waterproofing) to a level that provides adequate provision for the future fluctuation of the water table. This subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. All subsoil drainage around this subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
- 42 The construction methodology, parameters, and recommendations prepared by Coffey Geotechnics Pty Ltd, ref: GEOTLCOV24928AE-AC, dated 5 February 2016,
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shall be implemented and relied upon during the preparation of the construction certificate documentation and the construction of the proposed development.

- 43 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Principal Certifying Authority and Principal Certifying Authority must:
- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 44 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:
- (a) identify each item of plant and equipment;
 - (b) the following additional criteria adopted by Bayside Council:
 - (i) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (iv) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- 45 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

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- 46 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by the Principal Certifying Authority prior to their installation. Fire booster assemblies should be housed within the external face of the building structure and screened from view from the public domain area.
- 47 Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
- 48 Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
- 49 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
- 50 The applicant is to submit payment of a Tree Maintenance Bond of \$7,500.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
- 51 Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Public Works Defects Liability Bond of \$25,000. The duration of the Bond shall be limited to a period of 6 months after Council approval of all public domain works. At the completion of the 6 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
- 52 Prior to the issue of the construction certificate, the landscape areas shown on Sturt Noble Landscape plans dated 28/09/2017 Issue B shall be the subject of detailed landscape construction level documentation to be submitted to and approved by the Bayside Council's Landscape architect. The plans shall address the following:
- (a) All four existing trees (Tree 11 and 21: *Casuarina glauca*. Trees 12 and 16: *Eucalyptus botryoides*. Trees) can be removed and shall be replaced with four (4) *Corymbia maculata*, supplied at 500 Litres minimum pot size, to be planted in the deep soil area along Banks Avenue frontage setback within the site.
 - (b) 500L minimum tree pot size is to be supplied for all trees on the ground level. The planting schedule is required to indicate pot sizes for all proposed plants;
 - (c) A minimum of 12 canopy trees shall be provided along Banks Avenue frontage landscape setback.

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- (d) All frontage landscape setback shall also include small and medium trees to provide a green buffer, this planting can include deciduous trees strategically located adjacent to north face terraces units to allow sun access in winter and shade in summer. Large canopy trees shall be included in all deep soil areas where the space allows. There shall be a variety of three heights in all setbacks inclusive of small, medium and large canopy trees with the majority (80 to 90%) being indigenous local or native species where possible. All trees must be of appropriate scale to complement and ameliorate the built form and to pedestrianise setbacks and entries and make use of feature or specimen trees. Feature/specimen trees are favoured suitable to the residential setting and to visually enhance the Banks Avenue setback and soften buildings as a component of the streetscape and public domain.
- (e) Shrubs of varying heights shall be used throughout all setbacks of the site including at the base of the buildings to visually ground buildings and screen edges and façades. Lawn shall be minimised, and be limited to recreational areas in public open space area between UB5W and UB3, where sun access allows proper growth of grass.
- (f) Screen planting or buffer planting is required along the property boundary to provide screening and privacy for UB3 residents. Screen planting shall comprise tall, dense foliated shrubs that achieve a height of 2.5 metres and that retain foliage near ground level. Planter beds shall be a minimum width of 0.75 metres.
- (g) Planter boxes located between public open space and south façade of building shall include trees and shrubs to provide wind break and privacy.
- (h) Landscape plans shall include/display all proposed and retained levels, top of walls and all stormwater relevant information: location of underground stormwater, pits and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised.
- (i) A planting plan indicating all plant locations, groupings and centre/spacing. There is to be a dense, layered planting of canopy trees, medium trees and shrubs of a varying height and feature in all landscaped areas. All landscaped areas adjacent to public domain shall follow CPTED principles.
- (j) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape handworks/materials such as retaining walls and paving.
- (k) Provide details, sections and materials of fences, privacy screening, pergolas and walls visible from the public domain of both external roads and public open space.
- (l) Indicate the location of all basement structures relative to the landscape areas on the landscape plan.
- (m) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- (n) **Terraces landscape treatment.** Terraces shall include screen shrubs in planter boxes, with small leaves to perform as a wind breaker and mitigate

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- wind conditions, in particular for terraces and balconies areas exposed to the southwest, from where the strongest winds prevail.
- (o) Level 11, level 14, and level 16 roof private terraces shall include perimeter built in planter boxes, providing a total or partial enclose of each terrace. Pot plants are not supported. Planting in planter boxes shall include low maintenance feature and screen shrubs to grow 700 to 1000 mm high.
 - (p) Level 4 and level 5 open balconies shall be treated to mitigate wind effect with planter boxes with screen planting to reach 1800mm from ground level or balustrade 1395 mm high, to comply with requirements of Qualitative Wind Assessment, prepared by SLR Consulting Australia Pty Ltd, dated 12th October 2017.
 - (q) Synthetic turf is not supported. Timber deck is recommended instead to avoid raised of temperature produced by synthetic turf, overuse of water to control temperature in summer, and related environmental issues.
 - (r) All proposed pergolas shall have climbers growing on top to ameliorate amenity and environment.
 - (s) Planter boxes will be fully automatic irrigated. Construction details, sections and external finishes shall be provided. Planter box depths and construction specifications to be in accordance with Apartment Design Guide, NSW Planning and Environment, July 2015.
 - (t) Maintenance schedule for all soft and hardscape works is to be provided.
 - (u) Deep soil area between UB5W and UB3 shall avoid lawn and maximised canopy planting; trees to be supplied at a minimum 400 Litre pot size.
 - (v) The exhaust stack within the central communal open space on the ground floor must be screened with either decorative panels, climbers or similar to enhance its visual appearance within the open space and the outlook for residents.
- 53 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.
- 54 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.
- 55 Prior to the issue of a Construction Certificate, an application for Property Address Allocation and associated fee is required to be submitted to Council. Determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.
- The form is available for download at:

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<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at: http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/2018_NSW_Addressिंग_User_Manual.pdf

The numbering (sub-addresses) of the individual units in multi-level sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.

Developers of multi-level buildings are required to submit their schedule of addresses to Council for addressing approval prior to registration of the subdivision plan.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 56 Construction operations shall comply with the following:
- (a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - (e) Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - (f) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
 - (g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 57 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.

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- 58 Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice. A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

- 59 Inspections must be conducted by Council's Engineer at the following occasions:
- (a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - (b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - (c) Formwork inspection of Council's footpath prior to laying of concrete,
 - (d) Inspections of the Banks Avenue road reserve prior and during the construction of the new road pavement,
 - (e) Final inspection of driveway layback and adjacent kerb and gutter,
 - (f) Final inspection of Council's kerb and gutter,
 - (g) Final inspection of Council's footpath,
 - (h) Final Inspection of new road pavement on Banks Avenue.

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- 60 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding buildings (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 61 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 62 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.
- 63 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.
- 64 The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

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- 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- c) Time Restrictions
- i) Monday to Friday 07:00am to 06:00pm;
- ii) Saturday 07:00am to 03:00pm
- iii) No Construction to take place on Sundays or Public Holidays.
- d) Silencing
- i) All possible steps should be taken to silence construction site equipment.
- 65 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Soil and Water Management Plan if required under this consent;
- (b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
- (c) Protection of the Environment Operations Act 1997.
- 66 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.
- 67 All remediation work must be carried out in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
- (d) the Remedial Action Plan 'Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW' prepared by Douglas Partners, Project 71631.12, dated September 2013.
- 68 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the '*Acid Sulfate Soils Management Plan – 130-150 Bunnerong Road, Pagewood, NSW*', Reference CES130805-MG-AD by Consulting Earth Scientists dated 21 January 2016.
- 69 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a

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report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

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 Results of the monitoring of any field parameters such as soil, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

73 Landscape construction should be carried out by a qualified landscape contractor to ensure that adequate standards of workmanship are achieved. Landscape contractors who are members of the Landscape Contractors Association of NSW should be engaged.

74 Landscaping shall be installed in accordance with the approved Sturt Noble landscape plans only stamped by Council's Landscape Architect and dated prior to the issue of a Construction Certificate. (This amended plan supercedes the original landscape plan).

75 In accordance with council's DCP, the following activities are prohibited beneath the canopy drip line of any tree required to be retained and protected unless otherwise approved under the development consent/plans:

- (a) Excavations and trenching (with exception of the approved foundations and underground services);
- (b) Ripping or cultivation of soil;
- (c) Mechanical removal of vegetation;
- (d) Soil disturbance or movement of natural rock;
- (e) Soil level changes including the placement of fill material (excluding and suspended floor slab);
- (f) Movement and storage of plant, equipment & vehicles;
- (g) Erection of site sheds;
- (h) Affixing of signage or hoardings to trees;
- (i) Storage of building materials, waste and waste receptacles;
- (j) Disposal of waste materials and chemicals including paint, solvents,

In accordance with AS 4970 – 2009, inspections shall be conducted by the Project Arborist in accordance with the following key milestones:

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Prior to any work commencing on-site (including demolition, earthworks or site clearing) and following installation of tree protection fences, tags and trunk protection; During any excavations, building works and any other structure within the TPZ of the tree to be retained & protected, including any landscape works; A minimum of every month during the construction phase from Commencement to issue of the Occupation Certificate; and Following completion of the building works.

The Project Manager shall be responsible to notify the Project Arborist prior to any works within the Tree Protection Zones of protected tree within a minimum of 24 hours' notice.

- 76 If adjustment or connection to existing subsurface services or utilities within the road verge or the road carriageway is required, **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer so as not to impact or harm the existing street tree. NOTE: Services may require re-routing at the Applicant's expense to ensure tree root protection. New overhead electrical property service wires shall located so that it is outside the tree canopy. No canopy pruning will be permitted for service wires.
- 77 The Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 78
 - (a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
 - (b) The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 79 ~~**For the purposes of irrigating the landscaped areas, a water tank, minimum 25,000 litres in size but ideally equivalent to the building roof area to be drained, shall be installed on the property for stormwater collection and re-use. (DA-2017/1224/04)**~~
- 80 All new street trees shall be installed prior to completion of the staged development. All tree planting work is to be completed and protective fencing, being 1.8 metre chainlink fence, erected around the trees for protection prior to the commencement of construction.
- 81 All internal access driveways, parking areas and pedestrian walkways use ~~**washed aggregate concrete shall be unit paved (interlocking pavers). Large areas of asphalt. (DA-2017/1224/04)**~~
- 82 ~~**A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable. (DA-2017/1224/04)**~~
- 83 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:

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- (a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
- (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
- (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
- (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 84 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.
- 85 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 86 Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.
- 87 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 88 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
 - (a) Minimum 547 residential spaces
 - (b) 36 residential visitor spaces

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- (c) 3 car share spaces with one located in car park and two on street;
 - (d) 2 car wash bays
 - (e) 1 service bay
- 89 Prior to the issue of the relevant Occupation Certificate, at least 36 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 90 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.
- 91 Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
- 92 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 93 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- (a) On Banks Avenue, adjacent to development, remove redundant driveway crossover(s) and replace with kerb and gutter, turf, footpath and any other required tree planting and/or public domain improvements as specified by Council in accordance with Council's Infrastructure Specifications, and
 - (b) On Banks Avenue, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - (c) On Banks Avenue, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and
 - (d) On Banks Avenue, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.
- 94 The work to Tingwell Boulevard, Finch Drive, and Banks Avenue public footpath shall be constructed in accordance with Council specifications *outlined in the 'Frontage Works Approval'* Council document. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

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Construction hold points and Council inspections are required at the following points:

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

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

- 95 Prior to the issue of the relevant 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.
- 96 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. Certification must be provided by a suitably qualified engineer, certifying the design of the completed works.
- 97 ~~***Prior to the issue of the Occupation Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. Additionally, the plan must make provision for the following:***~~
- ~~(a) ***Recommendations and precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and***~~
 - ~~(b) ***A flood evacuation strategy for occupants, and***~~
 - ~~(c) ***Indication of the flood levels present on the site and surrounding streets.***~~
- ~~***The plan shall be located and fixed in a suitable location that can be accessed by all occupants to the satisfaction of the Principal certifier. (DA-2017/1224/04)***~~
- 98 Prior to the issue of the Occupation Certificate, the following easements shall be created in conjunction with Council and the beneficiary:
- (a) Register a new 'Easement for public pedestrian access' over the pocket park on the southern side of the site.
- 99 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and

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- (b) Positive Covenant and Restriction on Use of Land for Pump-out System. Refer to Appendix B of the SMTG for suggested wording, and
- (c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix C of the SMTG for suggested wording.

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

- 100 Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
- 101 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance with the NSW Addressing Policy prior to the issue of the Occupation Certificate. Application fees apply.
- 102 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.
- 103 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 104 Prior issue of an Occupation Certificate the Council footpath in front of the property is to be suitably repaired and made good after completion of construction works to Council specification and at the Applicant's expense. If existing pavers are damaged, subject to Council inspection and instruction, the Applicant is to source and purchase new pavers to match existing pavers in the street. If a significant number of new pavers are required Council may require that the entire frontage be replaced to allow for a uniform appearance. The footpath shall be maintained in a clean and tidy state at all times by the occupiers. Maintenance includes the removal of weeds and rubbish and periodic cleaning.
- 105 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- 106 The public domain and Council footpath area shall be upgraded with **approved new** paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved *Sturt*

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Noble Associates rev B and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate. (DA-2017/1224/04)

- 107 Prior to the issue of the Occupation Certificate, a site works review is required demonstrating:
- (a) Extent and minimum dimensions of the site dedicated to landscaping comply with the Detailed landscaping plans
 - (b) All detailed works comply with detailed schedules and specifications included in the detailed landscape plans
 - (c) Any modifications to the design were an equivalent or better solutions to the requirements of the detailed landscape plans and do not affect the ability of the landscape treatment to achieve the design intent.
 - (d) Site cultivation, quality and depth of soil and mulches as a minimum complies with Council specifications and standards.
 - (e) Drainage of all open space and soft landscaping complies with detailed landscape plans and to Council standards
- 108 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:
- (a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to be documented when required and updated on As-Builts. All Australian Standards nominated in this Specification are to be the current issue.
- 109 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:
- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
 - b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
 - c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 110 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.

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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.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable 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.

- 111 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.

- 112 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 113 The rooftop terraces are not to be enclosed as habitable space.
- 114 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed:
- (a) Solids shall be disposed to the waste disposal, and
 - (b) De-sludged liquid shall be disposed to the sewer.

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- 115 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 116 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 117 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 26 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- 118 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.
- 119 The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction, and in accordance with conditions of consent and Council's Landscape DCP, at all times.
- 120 New street trees shall be maintained by the Applicant for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
- 121 Ongoing maintenance of grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
- 122 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.
- 123 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.
- 124 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.
- 125 A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- (a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (b) Before 7 am or after 10 pm on any other day.

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- 126 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

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Statement of Environmental Effects

Section 4.55(1A) Application

130-150 Bunnerong Road Eastgardens

(Lot 2 in DP 1187426)

Amend Conditions of Consent

6 November 2018

PREPARED BY

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1 Introduction

1.1 Overview

This application has been prepared by Karimbla Construction Services (NSW) Pty Ltd pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify Development Consent DA/2017/1224 relating to 130-150 Bunnerong Road Eastgardens (the site).

1.2 Background

Development consent (DA/2017/1224) was granted by the Sydney Eastern City Planning Panel on the 2 August 2018 for the construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development will comprise of 356 units.

1.3 Purpose of the Modification

This Section 4.55(1A) application seeks approval for modifications to the conditions of consent:

CONDITION	DESCRIPTION
Condition 36 (e)	Modify Condition 36 (e) – Rainwater Tank
Condition 39 (i)	Delete Condition 39 (i) - Rigid polyethylene sheet type tree root barriers
Condition 39 (j)	Modify Condition 39 (j) – Raised Concrete Edge
Condition 79	Delete Condition 79 – Water Tank Size
Condition 81	Modify Condition 81 – Specifically state paved locations
Condition 82	Delete Condition 82 - – Raised Concrete Edge
Condition 97	Delete Condition 97 - Flood Risk Management Plan
Condition 106	Modify Condition 106 – Public Domain Plan

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.55(1A) of the EP&A Act.

2 Proposed Modifications to the consent

2.1 Existing Consent

Development consent (DA/2017/1224) was granted by the Sydney Eastern City Planning Panel on the 2 August 2018 for the following development:

“Construction of a residential apartment development consisting of three levels of basement, podium and six towers, 2 x 11 storeys, 2 x 14 storeys and 2 x 16 storeys. The development will comprise of 356 units”

2.2 Modifications to the development

This Section 4.55(1A) application seeks approval for modifications to the conditions of consent:

CONDITION	DESCRIPTION
Condition 36 (e)	Modify Condition 36 (e) – Rainwater Tank
Condition 39 (i)	Delete Condition 39 (i) - Rigid polyethylene sheet type tree root barriers
Condition 39 (j)	Modify Condition 39 (j) – Raised Concrete Edge
Condition 79	Delete Condition 79 – Water Tank Size
Condition 81	Modify Condition 81 – Specifically state paved locations
Condition 82	Delete Condition 82 - – Raised Concrete Edge
Condition 97	Delete Condition 97 - Flood Risk Management Plan
Condition 106	Modify Condition 106 – Public Domain Plan

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **strike through** and words to be inserted are shown in **bold italics**.

The conditions to be modified with associated justification is provided below.

Proposed Modified Condition 36 (e)

36. (e) “A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site with a combined catchment of at least the entire roof area of the development, only roof water shall be directed to the rainwater tank(s). In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage

system. ~~The rainwater tank(s) shall service the toilets, clothes washers and any outdoor irrigation/taps for landscaping within the development, and"~~

The approved BASIX Certificate does not include/require the rainwater tank to service toilets or clothes washers. The condition is therefore inconsistent with the BASIX requirements and is to be amended as follows.

Delete Condition 39 (i)

39. ~~(i) "Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling."~~

This condition requires all street trees planted alongside the kerb and footpath edge to have a tree root barrier installed. Based on the wording in the condition the barriers should have a depth of 900mm for 3 metres each side of the street centre and shall be located 150mm inward of the footpath and kerb edge.

The condition is inconsistent with the stamp Approved Public Domain Report and Landscape Plans and conditions of consent in DA2016/65, and must be deleted.

It is stated in Council's DCP 2013 Part 10 Appendix Landscaping Guidelines for Development, under Chapter 5, Clause 5.10 Root Control Barriers that "strip polyethylene tree root barriers (rigid ultra-durable high-density polyethylene (HDPE) is recommended for trees planted adjacent to or within paved areas to reduce the likelihood of pavements lifting or buckling with certain tree species.

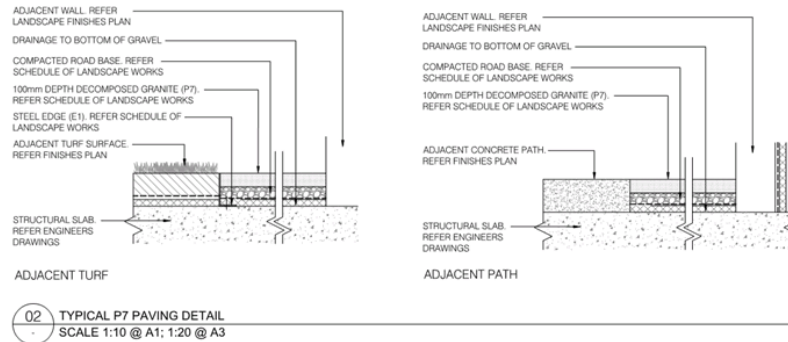
Proposed Modified Condition 39 (j)

39. (j) "A **raised** concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable".

The condition requires concrete edges to be installed around landscape areas. This condition does not specify particular landscaped areas, nor does it take into consideration alternative design solutions for retaining soil from onto adjoining pavements.

It is stated in Council's DCP 2013 Part 10 Appendix Landscaping Guidelines for Development, under Chapter 4, Clause 4.2 Edges and Retaining Walls to Planter Beds and Landscaped Areas that "*hard edges must be a minimum of 150mm in height above adjoining surfaces to prevent the encroachment of vehicles into planter beds*". Based on the requirements of the DCP the purpose of a raised concrete edge is to prevent the encroachment of vehicles into planter beds.

Therefore, we request to remove the following wording from the condition a “raised concrete edge” and replace the wording with a “concrete edge” as the wording of the condition is contrary to Council’s Landscaping Development standards. A typical finish that we have been implementing throughout the “Pagewood Green” site is shown below.



Delete Condition 79

~~79. “For the purposes of irrigating the landscaped areas, a water tank, minimum 25,000 10,000 litres in size but ideally equivalent to the building roof area to be drained, shall be installed on the property for stormwater collection and re-use”.~~

Condition 36 (e) already requires a rainwater tank with a minimum capacity 10,000L to be provided on site. Therefore, we request for Condition 79 to be deleted, having already been duplicated in the consent.

Proposed Modified Condition 81

81. “All internal access driveways, parking areas and pedestrian walkways use washed aggregate concrete ~~shall be unit paved (interlocking pavers)~~. Large areas of asphalt”.

The condition does not consider the suitability of interlocking pavers in the context of this development. Interlocking pavers are primarily used as a decorative material and are known to become uneven and unstable overtime; sink; fade in colour; retain water and grow weed and moss, which is unsuitable for high rise development.

This condition requires all internal access driveways, parking areas and pedestrian walkways to be paved. The condition does not consider basement car parking, localised water storage, regular car/pedestrian movement and ongoing maintenance after occupation.

It should be noted that we have not been required to provide interlocking pavers in other “Pagewood Green” Sites. Interlocking pavers are suitable for flat driveways associated with dwelling houses; in the case of this development the slope of the driveway is not conducive to pavers.

Therefore, we request Condition 81 be modified to remove the requirement for interlocking pavers and propose to use washed aggregate concrete as an alternate material for paved areas which has been consistently used across other completed "Pagewood Green" sites. This surface of this material is strong, skid-resistant, wears very well, requires little maintenance, blends well with other decorative materials and handles all kinds of extreme weather.

Delete Condition 82

~~82. "A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable."~~

This condition is a duplicate of Condition 39 (j). Therefore, we request for Condition 82 to be deleted.

Delete Condition 97

~~97. "Prior to the issue of the Occupation Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. Additionally, the plan must make provision for the following:~~

- ~~a) Recommendations and precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and~~
- ~~b) A flood evacuation strategy for occupants, and~~
- ~~c) Indication of the flood levels present on the site and surrounding streets.~~

~~The plan shall be located and fixed in a suitable location that can be accessed by all occupants to the satisfaction of the Principal certifier."~~

Each of the urban block consents obtained to date in "Pagewood Green" have not required a Flood Risk Management Plan prepared by a qualified practicing Civil Engineer to be provided.

To ensure consistency with the conditions in the other Urban Blocks approvals (UB5W DA16/18, UB5E DA16/143 and UB4 DA2017/1022) we request that Condition 97 be deleted from the Consent.

Proposed Modified Condition 106

106. "The public domain and Council footpath area shall be upgraded with approved **new** paving, street furniture and street tree planting, in accordance with **Approved Public Domain Report and Landscape Plans in DA2016/65**, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved Sturt Noble

Statement of Environmental Effects
130-150 Bunnerong Road Eastgardens
Amend Conditions of Consent

Associates rev B and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.”

The condition requires new public domain improvements that are inconsistent with the approved Public Domain DA2016/65. The condition is to be amended to reflect the Public Domain DA approval and the approved Landscape Plan listed in Condition 1 of this approval.

3 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if:

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

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- The intention of the modification is to allow for a change in the timing for the completion of various condition requirements to facilitate the phased occupation of the development.
- The proposed development retains the same use as the approved development and in this respect, there is no material change in the essence of the development;
- The proposed modifications will result in substantially the same development as originally approved under DA/2017/1224. The proposed modifications will not have any impact on the nature, scale, location or form of the approved buildings.
- The environmental impacts of the modified development are substantially the same as the approved development.

It is considered that the development is substantially the same as the original approval.

The proposal results in only minor physical changes to the approved development. Most of the changes relate to the timing for the completion of various condition requirements to facilitate the phased occupation of the development.

4 Environmental Planning Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if:

"it is satisfied that the proposed modification is of minimal environmental impact".

Under Section 4.55(4) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15C (1) of the EP&A Act.

The following assessment considers the relevant matters under Section 4.15C(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Section 4.15(1)(a)(i): Environmental Planning Instruments

4.1.1 Botany Local Environmental Plan 2013

Part 2 of the Botany Local Environmental Plan 2013 (LEP) identifies that the subject site is zoned R3 Medium Density Residential. The proposal is permitted in the zone subject to consent from the Council.

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

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

State Environmental Planning Policy No 65 – Quality of Residential Flat Buildings (SEPP 65) applies to the proposal.

The proposal remains compliant with the SEPP 65 Design Principles and does not vary from the ADG requirements.

4.1.3 State Environmental Planning Policy (Building Sustainability Index: Basix) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) came into force on 1 July 2004 and has been progressively implemented to the various types of residential development.

A BASIX Certificate was submitted as part of the original approval and demonstrates that the proposed development meets the required water, thermal comfort and energy targets.

The minor amendments do not change the BASIX requirements from the original approval.

4.2 Section 4.15(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site.

4.3 Section 4.15(1)(a)(iii): Development Control Plans

4.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 applies to the subject site. An explanation of the amendment to the conditions where relevant to the DCP are listed under Section 2.2 of this report.

4.4 Section 4.15(1)(a)(iiia): Planning Agreements

Not applicable.

4.5 Section 4.15(1)(a)(iv): Regulations

The Section 4.55(1A) Application has been made in accordance with the requirements contained in Clause 117 of the *Environmental Planning and Assessment Regulation 2000*.

4.6 Section 4.15(1)(b): Likely Impacts

There are no impacts that will result from the proposed amendments to conditions. The changes are generally minor and will not have any amenity impacts on the existing surrounding buildings or other parts of the existing approved development.

4.7 Section 4.15(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

4.8 Section 4.15(1)(d): Submissions

Should notification be required for the proposal, Council will consider submissions at the close of the notification period.

4.9 Section 4.15(1)(e): The Public Interest

For the reasons set out in this Statement, there are no matters of public interest that would be detrimental to the proposed conditions to be amended.

5 Conclusion

This Section 4.55(1A) application seeks approval for modifications to the conditions of consent and the following design changes:

CONDITION	DESCRIPTION
Condition 36 (e)	Modify Condition 36 (e) – Rainwater Tank
Condition 39 (i)	Delete Condition 39 (i) - Rigid polyethylene sheet type tree root barriers
Condition 39 (j)	Modify Condition 39 (j) – Raised Concrete Edge
Condition 79	Delete Condition 79 – Water Tank Size
Condition 81	Modify Condition 81 – Specifically state paved locations
Condition 82	Delete Condition 82 - – Raised Concrete Edge
Condition 97	Delete Condition 97 - Flood Risk Management Plan
Condition 106	Modify Condition 106 – Public Domain Plan

In accordance with Section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the proposed modifications will not result in any significant additional environmental impacts in relation to adjoining and surrounding properties;
- the proposed modifications do not result in a development that contravenes the Botany Local Environmental Plan 2013 (LEP) development standards;

In light of the above, we therefore recommend that the proposed modification is supported by Council and we trust that this information is sufficient to enable a prompt assessment of the proposed modification.

Bayside Local Planning Panel

12/02/2019

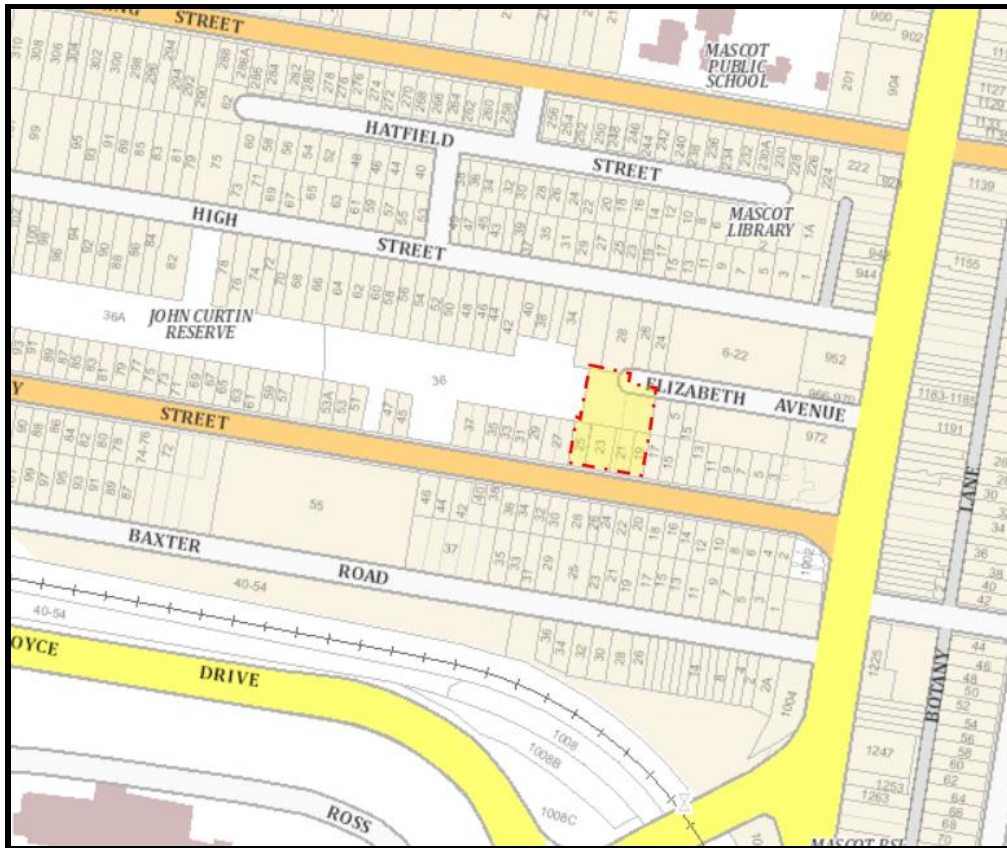
Item No	6.6
Application Type	Development Application
Application No	SF19/386
Lodgement Date	08/08/2018
Property	DA-2016/165/02 - 19-25 Robey Street, Mascot
Ward	Mascot
Owner	Robey Mascot Pty Limited
Applicant	Inca Property Group C/- John Chudleigh
Proposal	Application to modify Development Consent No. 16/165 to relocate travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot.
No. of Submissions	0
Cost of Development	nil
Report by	Michael McCabe, Director of City Futures

Officer Recommendation

That the Bayside Local Planning Panel approve Section 4.55(1A) Application to modify Development Consent No. 16/165 to relocate travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot, as follows:

1. That Condition No. 1 be modified to reflect the proposed plans that are subject to this application;
2. That Condition No. 33 be modified;
3. That Condition No. 95 b) be added to maintain safety for pedestrians due to the revised location of the travel path; and
4. That Condition No. 107 be updated to reflect Council's Development Engineers' requirements.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Modification Architectural Plans [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-16/165/02
Date of Receipt:	8 August 2018
Property:	19-25 Robey Street, Mascot
Owners:	Robey Mascot Pty Limited
Applicant:	Inca Property Group C/- John Chudleigh
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2016/165 to relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2
Recommendation:	Approval, subject to recommended conditions of consent
Value:	N/A
No. of submissions:	Nil
Author:	Sumeet Badhesha, Development Assessment Planner
Date of Report:	14 January 2018

Key Issues

Bayside Council received Modification Application No. 16/165/02 on 8 August 2018 seeking consent to modify Development Consent No. 2016/165 to relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot.

The proposed modifications are supported with the exception of deletion of Condition 33 as sufficient justification for the removal of the condition is not provided. The condition does not require the substation to be raised but requires the substation to be flood proofed up to a level of 5.99m AHD.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, except for the mailroom relocation.

Recommendation

That the Bayside Local Planning Panel approve Section 4.55(1A) Application to modify Development Consent No. 16/165 to relocate travel path, reconfigure waste storage area,

amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot, as follows:

1. That Condition No. 1 be modified to reflect the proposed plans that are subject to this application;
2. That Condition No. 33 be modified;
3. That Condition No. 95 b) be added to maintain safety for pedestrians due to the revised location of the travel path; and
4. That Condition No. 107 be updated to reflect Council's Development Engineers' requirements.

Background

History

Development Application No. 16/165 was approved by the Sydney Eastern City Planning Panel on 17 April 2018 for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

Site Description

The subject site is legally known as 19-25 Robey Street and 5, 5A and 5B Elizabeth Avenue, Mascot. The site comprises seven (7) parcels of land described as Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264.

The site is located on the northern side of Robey Street, between Botany Road to the east and O'Riordan Street to the west, and the southern side of Elizabeth Avenue. Botany Road is approximately 130 metres to the east, containing the Mascot Town Centre while Sydney Kingsford Smith Airport is a short distance to the south-west of the site. Mascot train station is approximately 1.2Km to the north-west of the site, with a bus interchange located within 200 metres of the site along Botany Road. John Curtin Reserve adjoins the site to the north. The site location is illustrated in **Figure 1**.

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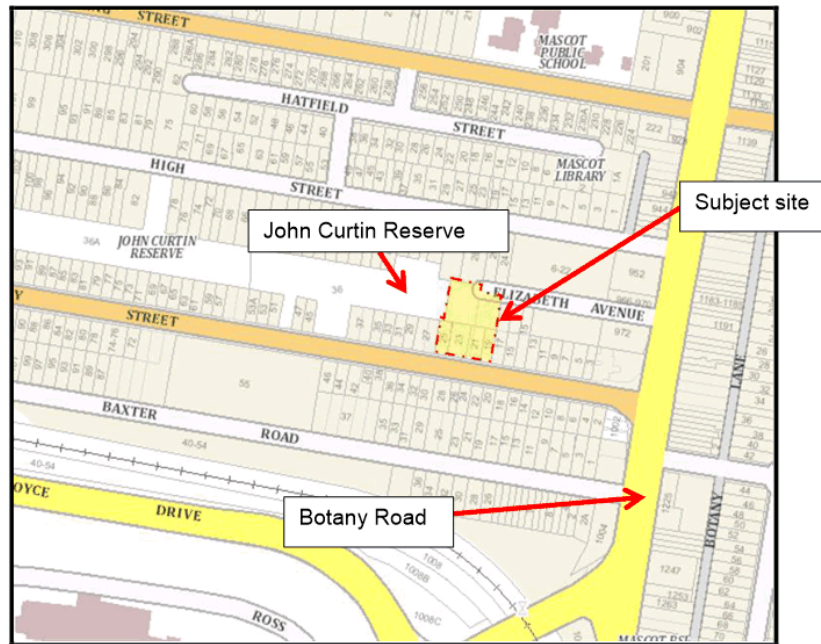


Figure 1: Locality Plan (Source: SIX Maps)

The site has a total area of 2,590m² with a 47 metre street frontage to Robey Street and two street frontages to Elizabeth Avenue of 6.6 metres and 18.3 metre frontage. The side boundaries comprise 53.8 metres along the eastern boundary and 60.3 metre along the western boundary. The rear boundary (stepped) to Elizabeth Avenue is 44.2 metres long. The site is relatively flat, with a 1.5 metre fall across the site from north to south

The site comprises a generally regular shaped parcel of land, with the two street frontages to Robey Street and Elizabeth Avenue. There are numerous vehicle crossings into the site along Robey Street, while there is also existing vehicle access to the Elizabeth Avenue properties from the cul-de-sac in Elizabeth Avenue.

The site is currently vacant and all structures on the site have been demolished for construction of the approved development.

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Figure 1: Robey Street Frontage



Figure 2: Looking towards adjoining development under construction at 27-29 Robey Street, Mascot

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Figure 3: Looking towards Elizabeth Avenue frontage

The surrounding area includes a mix of residential, commercial and open space uses. Land to the north is occupied by single and two (2) storey detached dwelling houses with frontages to High Street. John Curtin Reserve, an area of passive public open space, is located adjoining the site to the north-west and links High Street with Robey Street to the west of the site. A three (3) storey residential flat building is located to the north-east of the site along High Street while the Mascot Town Centre is located further to the east along Botany Road.

An 8 storey serviced apartments building is currently nearing completion to the west at 62-66 Robey Street on the southern side of Robey Street. A mixed use building at the corner of Robey Street and Botany Road has also recently been constructed, which comprises five storeys and a maximum height of 17.99 metres. A five (5) storey mixed use building has been approved on the adjoining site to the west and is currently under construction, known as No 27-29 Robey Street, with a gross floor area of 1,526.94m² and a maximum height of 16.16 metres.

Description and Assessment of the Proposed 4.55(1A) Modifications

Modification No. 1: Reconfiguration of retail floor area, with retail unit 1 reduced in floor area by 5sqm, and retail unit 2 increased in floor area by 5sqm

The proposed modification seeks to reduce the size of retail unit 1 from 91sqm down to 86sqm, and increase the size of retail unit from 102sqm to 107sqm. The proposed reconfiguration of both retail units does not change the overall size of retail space provided for the development and therefore does not impact on the S7.11 Contributions or car parking as was originally approved.

Proposed modification is considered acceptable.

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Modification No. 2: Reconfiguration of bicycle parking

The proposed modification seeks to relocate the bicycle parking from along retail unit 2 to along the landscape strip fronting residential apartment 2B. It is acknowledged the bicycle parking will be located adjacent to the bedroom however there is a proposed landscape strip which provides a buffer. The proposed modification is considered acceptable.

Modification No. 3: Relocation of substation chamber to align with front boundary as required through correspondence with Ausgrid

The modification application seeks consent to relocate the substation chamber up to the front boundary of the site as per the requirements of Ausgrid. The substation chamber is appropriately screened utilising materials and colours which are in keeping with the development and the streetscape.

The modification application also seeks consent to delete condition 33. This was assessed by Council's Development Engineer and entire deletion of the condition is not supported as sufficient justification for the removal of the condition is not provided. The condition does not require the substation to be raised but requires the substation to be flood proofed up to a level of 5.99m AHD. The condition is modified to avoid confusion and reinforce the requirement of flood proofing, and not raising of the substation.

Modification No. 4: Relocation of egress travel path from eastern edge of vehicular crossing to the western edge, adjacent to the building

This modification is supported by Council's Development Engineer subject to a condition requiring suitable signage to avoid pedestrian and service vehicle conflict, due to the pedestrian footpath running along the loading bay.

Modification No. 5: Minor reconfiguration of waste storage area behind retail unit 1.

The proposed modification seeks to make internal changes to the waste storage area located behind retail unit 1. The changes to the waste storage are minor in nature and limited to the internal area of the rooms. The proposed modification is consideration acceptable.

Modification No. 6: New plant room to be located behind substation chamber adjacent to the western wall of retail unit 2.

The proposed modification seeks to add a new plant room behind the substation chamber. The plant room is located behind the substation chamber therefore is not visible from the street. There is no change in gross floor area for the development as the plant room is excluded from the calculation of the gross floor area.

Modification No. 7: Amendment to the ramp entry to ground floor residential units within the western side setback, with new wheelchair lift at the front boundary providing access to the retail units.

The proposed modification maintains equitable access to and from the site, as was originally approved, and is considered acceptable.

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Modifications to Conditions

The following conditions are proposed to be amended:

- Condition No. 1 to reflect the design changes listed above;
- Condition No. 33 is modified;
- Condition No. 95 b) is added to maintain safety for pedestrians due to the revised location of the travel path; and
- Condition No. 107 is updated to reflect the requirements of Council's Development Engineer in relation to the display of the originally approved Flood Risk Management Plan and Flood Evacuation Plan.

Statutory Considerations

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

SECTION 4.55(1A) CONSIDERATIONS (previously Section 96(1A))

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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

The Section 4.55(1A) modification application relates to modifications to the ground floor and conditions, and as such, the modifications will result in substantially the same development as approved under DA-16/165. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to modifications to the ground floor, therefore the modification application is substantially the same development to which consent was originally granted.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the***

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notification or advertising of applications for modification of a development consent, and

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, due to the nature of the modifications proposed the application was not required to be notified.

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

No submissions were received.

S4.15(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:

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the original development application.

Development Application No. 16/165 was approved as integrated development as the proposal involves a temporary construction dewatering activity. General Terms of Approval were placed in the consent relating to the temporary construction dewatering activity. The subject application does not change the depth of excavation required or the envelope of the basement levels approved therefore the subject application is not integrated development and does not need to be referred to Water NSW.

State Environmental Planning Policy (Infrastructure) 2007

Due to the nature of the modifications proposed, the proposal remains consistent with the Infrastructure SEPP.

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 not required to provide a revised BASIX Certificate as the proposed changes do not modify any windows or opening or thermal comfort as originally approved.

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. Clause 7 of State Environmental Planning Policy 55 requires Council to be

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satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

Consideration of SEPP No. 55 was carried out within the assessment of DA-16/165. Therefore SEPP No. 55 does not need to be assessed as part of this proposal.

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. Due to the proposed modifications being predominately encased within the approved built form approved under DA-16/165, the development application was not required to be presented to the Design Review Panel.

The building will continue to be consistent with the approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013 (BBLEP)

The Section 4.55(1A) modification application relates to various minor modifications to which there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previous conclusions that were approved in the parent DA have not been altered as part of this application. The proposal will continue to be consistent with the objectives of the BBLEP 2013.

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

There are no current Draft EPIs applicable to this development.

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

Botany Bay Development Control Plan (BBDCP) 2013

The Section 4.55(1A) modification application relates to minor modifications to which there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application.

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.

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

The proposal does not alter the conclusions that were resolved and approved within DA-16/165.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The proposed changes are not considered to be substantial and no significant planning issues are raised that would warrant the refusal of the proposed development.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was not required to be notified.

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.

Conclusion

The Section 4.55(1A) Application seeks to modify Development Consent No. 2016/165 which approved the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking. The modification relates to amendments to the ground floor of the building and are minor in nature. The development as modified, is substantially the same development that was originally approved. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Attachment

Schedule 1 – Conditions of Consent

Premises: 19-25 Robey Street, Mascot

DA No: DA-16/165/02

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Plans	Author	Date Received
Cover Page, Drawing No. DA001, Rev A dated 27 February 2018	DKO Architecture	1 March 2018
Site Analysis Plan, Drawing No. DA101, Rev A dated 27 February 2018		1 March 2018
Site Plan, Drawing No. DA102, Rev A dated 27 February 2018		1 March 2018
Demolition Plan, Drawing No. DA103, Rev A dated 27 February 2018		1 March 2018
Ground Floor Plan, Drawing No. DA201, Rev A dated 27 February 2018 Ground Floor Plan, Drawing No. DA201, Rev E dated 12 July 2018		1 March 2018 8 August 2018
Level 1 Plan, Drawing No. DA202, Rev A dated 27 February 2018		1 March 2018
Level 2 Plan, Drawing No. DA203, Rev A dated 27 February 2018		1 March 2018
Level 3 Plan, Drawing No. DA204, Rev A dated 27 February 2018		1 March 2018
Level 4 Plan, Drawing No. DA205, Rev A dated 27 February 2018		1 March 2018
Roof Terrace, Drawing No. DA206, Rev A dated 27 February 2018		1 March 2018
Basement 1 Plan, Drawing No. DA207, Rev A dated 27 February 2018		1 March 2018
Basement 2 Plan, Drawing No. DA208, Rev A dated 27 February 2018		1 March 2018
Adaptable Units, Drawing No. DA209, Rev A dated 27 February 2018		1 March 2018
South Elevation, Drawing No. DA301, Rev A dated 27 February 2018 South Elevation, Drawing No. DA301, Rev C dated 12 July 2018		1 March 2018 8 August 2018
North Elevation, Drawing No. DA302, Rev A dated 27 February 2018		1 March 2018
East Elevation, Drawing No. DA303, Rev A dated 27 February 2018		1 March 2018

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West Elevation, Drawing No. DA304, Rev A dated 27 February 2018		1 March 2018
Section A, Drawing No. DA305, Rev A dated 27 February 2018		1 March 2018
Section B, Drawing No. DA306, Rev A dated 27 February 2018		1 March 2018
Section C, Drawing No. DA307, Rev A dated 27 February 2018		1 March 2018
Streetscape, Drawing No. DA308, Rev A dated 27 February 2018		1 March 2018
Landscape Concept Ground Floor Plan, DWG No. LSDA-201, Issue C dated 7 February 2018	Greenplan	1 March 2018
Landscape Concept Roof Floor Plan DWG No. LSDA-202, Issue C dated 7 February 2018		1 March 2018
Landscape Planting Ground Floor DWG No. LSDA-301, Issue A, dated 7 February 2018		1 March 2018
Landscape Planting Roof Floor, DWG No. LSDA-302, Issue A dated 7 February 2018		1 March 2018
Landscape Details Planting, DWG No. LSDA-401, Issue A, dated 7 February 2018		1 March 2018
Landscape Details Typical Construction, DWG No. LSDA-404, Issue A dated 7 February 2018		1 March 2018
Cover Sheet, Drawing No. SW100, Revision A dated 26 February 2018		
Stormwater Concept Design – Basement 2 Plan, Drawing No. SW200, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Ground Floor Plan, Drawing No. SW201, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Roof Plan, Drawing No. SW202, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 1 of 2, Drawing No. SW300, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 2 of 2, Drawing No. SW301, Issue A, dated 26 February 2018		1 March 2018
Erosion & Sediment Control – Plan & Details, Drawing No. SW400 dated 26 February 2018		1 March 2018
Stormwater Concept Design – Music Catchment Plan, Drawing No. SW500, Issue A, dated 26 February 2018	SCG Engineering	1 March 2018
Survey Plan (Ref: 3558), dated 7 June 2016	Cedar Surveying Services Pty Ltd	16 September 2016
Ground Floor Swept Paths – 6.4m SRV, Drawing No TX.01 Rev C, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
Ground Floor Swept Paths – B85 & B99 Drawing No TX.02 Rev C, dated 23 February 2018		1 March 2018

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Basement Level 1 B99 Circulation & Passing, Drawing No. TX.03, Rev C dated 23 February 2018		1 March 2018
Basement Level 2 B99 Circulation & Passing, Drawing No. TX.04, Rev B dated 18 January 2018		1 March 2018
Ramp Profile, Drawing No. TX.05, Rev C dated 23 February 2018		1 March 2018

Reference Document(s)	Author	Date Received
Amended Statement of Environmental Effects	Chapman Planning Pty Ltd	1 March 2018
Amended Clause 4.6 variation to the height development standard dated 27 February 2018	Chapman Planning Pty Ltd	1 March 2018
Statement of Compliance: Access for people with a disability (Ref: 216196), dated 26 February 2018	Accessible Building Solutions	1 March 2018
SEPP 65 Report dated 26 February 2018	DKO Architecture	1 March 2018
Traffic Impact Assessment Rev B- Ref: 17.607v02, dated 23 February 2018	Traffic Traffic and Transport Planners	1 March 2018
BASIX Certificate No. 902705M_02, dated 25 February 2018	Senica Consultancy Group Pty Ltd	1 March 2018
NATHERS Certificates with various dates	Senica Consultancy Group Pty Ltd	1 March 2018
Acoustic Report- Ref: 20161114.1/1104A/R1/RL (Rev 1), dated 11 April 2017;	Acoustic Logic	21 April 2017
Arboricultural Assessment Report (Ref: R 17/11), dated 24 August 2016.	Angophora Consulting Arborist	16 September 2016
Arboricultural Assessment Report - Tree Impact Statement & Root Investigation dated 12 April 2017;	Naturally Trees	21 April 2017
BCA Compliance Assessment Report No. 18/002, dated 23 February 2018	Paul Aramini Consulting Pty Ltd	1 March 2018
Waste Management Plan 2018/02034 dated 22 February 2018	Senica Consultancy Group	1 March 2018
Stage 1 Desktop Environmental Site Assessment (Ref: E29461KHrpt dated 20 July 2016.	Environmental Investigation Services (EIS)	16 September 2016
Stage 2 Environmental Site Assessment (Ref: E29461KHrpt2-interim) dated 16 September 2016;	Environmental Investigation Services (EIS)	16 September 2016
Geotechnical Investigation- Ref: 29461ZRrpt dated 20 July 2016;	JK Geotechnics	16 September 2016

(Modified via DA-2016/165/02)

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- 2 This Consent relates to land in Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264 and as such, building works must not encroach on to adjoining lands or the adjoining public place, except as otherwise permitted by this consent.
- 3 The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days' notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
- a) Note:
Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 6 The following conditions provided by **Ausgrid**:
- a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the

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- electrical supply requirements for the development (e.g. whether a substation is required on site).
- b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
- (i) Changes in electrical load requirements
 - (ii) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.);
 - (iii) Works affecting Ausgrid's easements, leases and/ or right of ways
 - (iv) Changing the gradients of any roads or paths
 - (v) Changing the level of roads or foot paths
 - (vi) Widening or narrowing of roads
 - (vii) Closing roads or laneways to vehicles
 - (viii) In all cases Ausgrid is to have 24 hour access to all its assets
- c) Any work undertaken near overhead power lines needs to be done in accordance with:
- (i) WorkCover Document ISSC 23 "*Working Near Overhead Power Lines*"
 - (ii) Ausgrid's Network Standard
 - (iii) Ausgrid's Electrical Safety Rules
- d) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.
- 7 The conditions provided by **Sydney Airport Corporation Limited (SACL)** in their letter dated 7 May 2018 are imposed:
- a) The approved development is permitted to be constructed to a maximum height of 27.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- 8 The conditions provided by **Sydney Water** in their letter dated 3 November 2016 are imposed.
- 9 The conditions provided by **Water NSW** in their letter dated 9 November 2016 are imposed.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE

- 10 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

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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.

- 11 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.

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) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
- n) Sewer – common sewerage system.

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- 12 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.
- 13 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), Structural vibration Part 3 – Effects of vibration on structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 14 Prior to the commencement of any demolition, excavation or remediation 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.

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

- 15 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
 - (a) Development Control \$2,940.00
 - (b) Builders Security Deposit \$47,000 (Refer to Condition below)
 - (c) Section 94 Contributions \$848,746.17 (Refer to Condition below)
- 16 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$47,000.00** (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.
- 17 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$848,746.17** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

The s94 contributions (as indexed to April quarter 2017) for residential are as follows:

- a) Community Facilities = \$145,984.34
- b) Recreation = \$632,315.89
- c) Transport = \$59,412.24

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d) Administration	= \$11,033.70
TOTAL:	\$848,746.17.

The total Section 94 Contribution of **\$848,746.17** is to be paid to Council prior to the issue of any Construction Certificate.

Note: The Section 94 Contributions 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.

- 18 Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council's Manager of Development Services for approval, showing the following:
 - a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
 - b) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean (family friendly apartment provisions of the BBLEP 2013).

- 19 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant Construction Certificate. The garbage and recycling storage area shall be adequately ventilated. 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.

- 20 The drawings for the construction certificate for the basement shall show the following parking requirements:
 - a) Residential - 111 car parking spaces;
 - b) Visitor - 14 car parking spaces;
 - c) Commercial – 8 car parking spaces;

Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate.

- 21 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the approved acoustical assessment report shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of

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construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- (a) Appropriate acoustic glazing to stated windows and doors,
- (b) Detailed roof and ceiling construction,
- (c) Wall and ceiling corner details and,
- (d) External door specification,
- (e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.

- 22 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 23 Prior to the issue of the relevant construction certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i. The additional load on the system, and
 - ii. The relocation and/or adjustment of the services affected by the construction.
- 24 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

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- 25 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any 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;
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation; and
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 26 Prior to the release of the Construction Certificate, the applicant shall provide certification from a suitably qualified Traffic Engineer to the Private Certifying Authority attesting that the design of the proposed development is in accordance with the approved Traffic Management Report by Traffix.
- 27 Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1

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and Council's Infrastructure Specifications, currently under review. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new driveway layback shall be constructed as part of the new driveway. A minimum 1.0 metre length of existing kerb and gutter on each side of the driveway layback shall be removed and replaced with new kerb and gutter to enable a transition for a correct tie-in with proposed public domain works.

The design shall be submitted to the Private Certifying Authority for approval and the approved design shall form part of the subsequent road opening permit application.

- 28 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant;
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police;
 - c) during construction, where required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by Council and/or NSW Roads and Maritime Services; and
 - d) 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.

- 29 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines; and
 - b) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure;
 - c) All service vehicles shall enter the property front in front out;

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- d) Demonstrate safe headroom clearance is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Small Rigid Vehicle (SRV);
 - e) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - f) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 30 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by Traffix, dated February 2018, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 31 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.
- 32 You are advised that Bayside Council's current adopted flood level for this location is RL 5.99m AHD. The proposal includes habitable/non-habitable areas that are below the flood level, the approved floor levels are 5.80m AHD for the commercial tenancies. Use of this development should reflect the flood risk. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 6.50 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood level.
- 33 Prior to the issue of the construction certificate, details shall be provided certifying that the proposed substation chamber is flood proofed/protected up to a level of at least RL ~~6.50m~~ 5.99m AHD.
Note: The intent of this condition is not for the substation to be raised and other means can be explored to the satisfaction of Ausgrid to flood proof the substation.
(Modified via DA-2016/165/02)
- 34 Prior to the issue of the Construction Certificate, the subsurface structures shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably qualified

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engineer. Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

- 35 A civil design plan must be prepared by a suitably qualified engineer and be approved by Council public domain department for all frontage works that are required to be constructed within the public domain. The frontage works shall be in accordance with any Council town centre plans and standard design drawings. Preliminary consultation with Council public domain department is highly recommended.
- 36 **Prior to the issue of the Construction Certificate**, A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:
- (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
 - (b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - (c) Flood warning signs/depth indicators for areas that may be inundated.
 - (d) A flood evacuation strategy.
 - (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
 - (f) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

Flood modelling data can be obtained from Council on payment of the appropriate fee.

- 37 **Prior to the issue of the Construction Certificate**, all surface runoff from parking facilities and access ways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted to the Principal Certifier.
- 38 **Prior to the issue of a construction certificate**, the applicant shall detail the provision for a traffic management & vehicle priority system at the top of the basement ramp & around the loading bay to help reduce the likelihood of vehicular crashes around this key circulation area.
- 39 **Prior to the issue of the Construction Certificate**, the applicant shall confirm the location of the Council pipeline that traverses the property. A report prepared by a qualified plumber certifying the location, depth and width of this pipeline shall be provided to the satisfaction of the Principal Certifier.
- 40 **Prior to the issue of Construction Certificate**, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads

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Act 1993, via a permit application. The submission will need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

- 41 A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
- 42 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 Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition;**
- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG;
- c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site;
- d) 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;

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- e) The submission of detailed calculations including computer modelling where required supporting the proposal;
 - f) The finished floor levels of any non-habitable and habitable buildings/structures shall be minimum 100mm and 300mm above the maximum top water level of the OSD system, which free-standing OSD tanks, situated on a the ground floor slab, would not be able to achieve;
 - g) Particular attention is also drawn to the requirements of SMTG Part 6, with respect to 6.2 (i) and (iii) – Discharge Control Pit and Storage Tank configuration; 6.2 (viii) and (x) – Orifice plate requirements; Part 7 – Underground Structures; Part 8 – Finished Floor Levels;
 - h) Concrete encasement of stormwater drainage pipelines within proposed Council drainage easements is not permitted by Council. Furthermore, the proposed diversion of stormwater drainage pipelines within proposed easements shall be shown on plans (with long-sections showing cover over pipes, pits and pit sizes, pipe sizes, pipe gradients, pipe material, and other relevant pipe characteristics) to be submitted to Council for approval prior to the issue of a construction certificate. The detailed design shall be in accordance with the requirements of Parts 12 and 13 of the SMTG. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate; and
 - i) The basement shall be protected from inundation up to and including the 1% AEP flood by a driveway crest situated on land that is not public land, and with a flood planning level of the 1% AEP flood level plus 300mm freeboard.
- 43 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the Council pipeline diversion for the development shall be submitted to the Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- a) Detailed hydraulic assessment that includes analysis of upstream catchments and hydraulic performance of the proposed system is required to be undertaken for the proposed diversion of Council assets within the property. The existing connections to adjoining properties shall be investigated and maintained. The new proposed pipeline shall have a minimum capacity for a 20 year ARI event. The existing, redundant pit on Robey Street, within the frontage of 21 Robey Street, shall be investigated for if it requires upgrade and/or relocation. The existing pit on Elizabeth Avenue shall be investigated for whether it requires upgrade and/or relocation. The current catchment of Elizabeth Avenue and surrounding properties drains to the existing system within the property, the proposed Council drainage system shall consider the Stormwater run-off generated from Elizabeth Avenue and surrounding properties that are currently draining to the existing system within site. A

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- connection to the existing drainage infrastructure within the frontage of 1-3 Elizabeth Avenue may be required for the development.
- b) Detailed plans & analysis shall indicate the proposed diversion of Stormwater drainage pipelines within proposed easements shall be shown on plans (with long-sections showing cover over pipes, pits and pit sizes, pipe sizes, pipe gradients, pipe material, and other relevant pipe characteristics) to the Robey Street Council drainage system from the end of Elizabeth Avenue & the end of John Curtin Reserve. The detailed design shall be in accordance with the requirements of Parts 12 and 13 of the SMTG and the diversion is to be contained wholly within the subject property and Council property. The final drainage easement locations shall be located wholly within the site. The details required above shall be submitted to Council for assessment and approval. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate.
- 44 Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$6,000 to ensure the installation and establishment of specific street trees in accordance with Councils *Street Tree Master Plan*. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.
- 45 The **Final Landscape Plan** generally in accordance with the approved Landscape Plan prepared by Greenplan (Issue A, dated 23 February 2018) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas;
- (i) Robey Street Tree Planting, the following is to be installed:
- 2 x trees - *Fraxinus griffithii* min. height 1.4 metres and pot size (45 litre) and 1 x *Callistemon viminalis* (*Botany Street Tree Master Plan 2014*) shall be installed in the Robey Street nature strip at 7 metre centres by a qualified landscape contractor to aid to the public amenity are required along the Robey Street reserve;
 - A Dial-Before-You-Dig enquiry is required prior to all tree planting;
 - The shrubs shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of

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- 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations;
- Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post planting;
 - The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing;
 - Verge plantings of low shrubs and groundcovers are also highly encouraged for aesthetic appeal to the streetscape of Robey Sreet. This verge under planting species should consist of Dianellas, Lomandras, native grasses and groundcovers such as Brachyscome multifida and Chrysocephalum apiculatum;
- b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees;
- c) 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;
- d) Indicate the location of all basement structures relative to the landscape areas;
- e) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report;
- f) Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Use of WSUD initiatives or materials is required to be indicated. All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt or concrete are not permitted. The basement driveway shall be constructed of plain broom finished concrete;
- g) Impervious surfacing is to be minimised. Permeable pavements are to be used where possible, e.g. Decks, pebbles, spaced pavers, specialised permeable pavers (DCP - 3L Landscaping and Tree Management);
- h) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the root ball are not permissible. Trees planted within paved areas shall have the barriers installed around the inside edge of the pavement cut-out. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing; and
- i) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.

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- 46 Side boundary fences forward of the building alignment shall be no more than 1 metre in height. Encourage and retain fencing character, styles and height for each street which may in some circumstances include no fences.
- 47 Planter boxes constructed over podium shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter;
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns;
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building; and

Details are to be provided on the Final Landscape Plan prior to the issue of the Construction Certificate.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 48 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (iii) The Development Approval number; and
 - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.

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- 49 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 50 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior demolition. The extent of the Dilapidation Survey is to be prepared by a practising Geotechnical Engineer having regard to foundations/structures of the locality
- 51 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit to install temporary ground anchors in public land;
 - d) Permit to discharge ground water to Council's stormwater drainage system;
 - e) Permit for roads and footways occupancy (long term/ short term);
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
 - h) Permit to place skip/waste bin on footpath and/or nature strip; and
 - i) Permit to use any part of Council's road reserve or other Council lands.
- 52 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 53 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All

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management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

- 54 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 55 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:
 - (a) must be standard flushing toilet; and
 - (b) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 56 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 57 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 58 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.
- 59 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 60 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for

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the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

- 61 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 62 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.
- 63 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 64 Prior to the commencement of excavation or any building works, 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.
- 65 In order to ensure that the Trees 17 and 26 are protected during construction, and its health and structural stability ensured, the following is required:
- a) Engage the Consultant Arborist for all tree root and canopy work to trees. Comply with recommendations and requirements and management plan contained within the *Tree Risk Assessment Report* by Angophora consulting Arborist, dated 24 August 2016.
 - 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/Landscape Plan.
 - c)
 - (i) 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 or 1.5 metre steel pickets and nylon para-webbing/hessian to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete;

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- (ii) 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;
 - (iii) Fencing shall be erected to ensure the public footway is unobstructed;
 - (iv) 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);
- d) 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;
- e) All detailed Construction Certificate plans shall show trees to be protected and the TPZ;
- f) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. 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);
- g) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage;
- h) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance;
- i) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer (or the consulting Arborist) after a site inspection so as not to unduly impact or stress the tree;
- j) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. This will be required for Tree NO 20 (Council Street Tree). Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- 66 Sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree to be retained and not located where it will limit the planting of trees on the site. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- 67 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then

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report on the existing condition of the existing stormwater drainage infrastructure on Robey Street road reserve and the pipes traversing 21 Robey Street between Robey Street and Elizabeth Avenue. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
- c) Distance from the manholes shall be accurately measured; and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline 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.

- 68 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. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (a) The additional load on the system; and
 - (b) The relocation and/or adjustment of the services affected by the construction;
 - c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider; and
 - d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.
- Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 69 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 practicing engineer, showing all

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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.

- 70 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:
 - ii) Adequate provision must be made for drainage.

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- 71
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council;
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (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;

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- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 72 During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, and concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 73 Separate permits are required to be obtained and approved by Bayside Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land. Note: A permit is required for the construction of Council drainage under section 68 of the local government act and/or the roads act.
- 74 The construction of the Bayside Council pipe diversion shall be inspected by Bayside Council's engineering department prior to backfill as per the instructions of the issued permit. A minimum 5 working day notice shall be given to Council prior to inspection. An inspection fee is required to be paid prior to inspection.
- 75 The approved elements including driveways, stormwater connections, (etc) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicants cost to suit the construction of approved design elements.
- 76 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.
- 77 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

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- 78 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.
- 79 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.
- 80 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.
- 81 A clearance certificate for the removal of asbestos from the site shall be prepared by a suitably qualified 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 report shall provide a notice of completion of asbestos remediation works at the site and shall be submitted after completion of asbestos removal works and prior to the commencement of building works on the site. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority).
- 82 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 83 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater

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shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

- 84 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.
- 85 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.
- 86 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.
- 87 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.
- 88 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.
- 89 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.
- 90 The following shall be complied with during construction and demolition:
- (a) Construction Noise
 - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

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- (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 05:00pm
 - (ii) Saturday 08:00am to 01:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
- (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
- 91 During excavation and 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.
- 92 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 93 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.

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

- 94 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C (1)(c) and 109M of the *Environmental Planning and Assessment Act 1979*.
- 95 The following requirements are to be met:
 - a) Fire booster assemblies and electrical kiosks 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 approved by Council's Landscape Architect prior to their installation.

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- b) *Prior to the issue of any Occupation Certificate, a convex mirror shall be installed near the top of the basement ramp, in a position that ensures that vehicles have adequate sight lines both entering and exiting the basement structure at the top of this ramp, to the satisfaction of the Principal Certifier. Additionally, electronic warning signage shall be provided and clearly displayed around the exit of the service bay to warn occupants of a reversing vehicle.***

(Modified by DA-2016/165/02)

- 96 Prior to the issue of the Occupation Certificate, the public footpaths in Robey Street and Elizabeth Avenue 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. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 97 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.
- 98 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.
- 99 The consolidation of all allotments into one allotment must be undertaken. Details demonstrating compliance with this requirement are to be submitted to the satisfaction of the Principal Certifying Authority prior to the release of the Final Occupation

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- Certificate. Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to occupation and use of the building.
- 100 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 101 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 111 residential spaces;
 - b) 14 visitors spaces;
 - c) 8 commercial/retail spaces;
 - d) 1 carwash bay located in the basement car park level;
- Any excess parking is to be allocated to an apartment.
- 102 Prior to the issue of the relevant Occupation Certificate, at least 14 bicycle spaces are to be provided in the car park.
- 103 Prior to the issue of any Occupation Certificates:
- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes;
 - b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building; and
 - c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 104 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.
- 105 Prior to the issue of any Occupation Certificate, the applicant shall lodge an infrastructure performance bond to safe guard against defective public civil works (associated with the Council pipeline diversion) undertaken by the main contractor for a period of twelve (12) months from the date of completion as agreed by Council. The bond shall be lodged in a form of cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Councils Engineers at the end of the maintenance period. Council will require a cost estimate prepared by a Quantity Surveyor in accordance with Rawlinsons Construction Cost Guide or equivalent. The cost of work shall include, but not limited to, construction of the pipe/pits, filing, excavation, traffic control, reinstatement of landscaping/paving

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and any other associated works with the pipeline diversion. The required bond amount to be lodged with Bayside Council shall be subject to the cost estimate as approved by Council, with consideration for inflation & unexpected costs over the bond period. During this bond period, the contractor is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

- 106 An easement to drain water shall be created over the Council pipe(s) that traverses the site and be to the benefit of Council. The terms of the easement shall be in accordance with the Conveyancing Act, the easement shall be legally registered with the relevant authority. The width of the easement shall be in accordance with Council specifications. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate;
- 407 ***Prior to the issue of any Occupation Certificate, the approved Flood Risk Management Plan and Flood Evacuation Plan shall be permanently fixed and displayed in a prominent location that can be accessed by all residents/occupiers on each level of the development, to the satisfaction of the Principal Certifier. Should the flood risk management report require a flood evacuation plan, the flood evacuation plan shall be located and fixed in a suitable location that can be accessed by all residents/occupiers to the satisfaction of the principal certifier.***
- (Modified via DA-2016/165/02)***
- 108 Prior to the issue of any Occupation Certificate, a suitably qualified engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification.
- 109 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 principal certifier upon request
- 110 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property, where applicable:
- a) The car park has been completed, line marked and all signage relating to car parking erected;
 - b) A notice has been clearly displayed at the Robey Street frontage to indicate that visitor parking is available within the property with access from Robey Street.
- 111 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 condition of the existing and new stormwater drainage infrastructure on **Robey St, Elizabeth Avenue and the site.**

The camera and its operation shall comply with the following:

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- e) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
- f) 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;
- g) Distance from the manholes shall be accurately measured; and
- h) 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. 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.

- 112 On completion of the development construction and prior to the issue of the Occupation Certificate, the following asset details shall be submitted to Council for consideration, in Excel format;

For each pit

- Pit code as per the work-as-executed plan.
- Pit type and lintel size.
- Total value to the nearest \$1,000.
- Construction date – month and year.
- Built by (contractor's name).
- Street name where applicable.
- Grate RL (AHD).
- Invert RL (AHD).

For each conduit

- Line code as per the work-as-executed plan.
- Description – type, eg RCP, FRC, RRJ, box culvert, open channel, etc.\
- Size (mm).
- Length (m).
- Total value to the nearest \$1,000.
- Construction date – month and year.
- Built by (contractor's name).
- Street name where applicable.

- 113 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

- 114 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:

- a) On Robey St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council Infrastructure

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Specifications. Location of kerb & gutter to be confirmed with Council prior to construction;

- b) On Robey Street and Elizabeth Avenue St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications;
- c) On Robey Street, adjacent to development, construct new stormwater pipe underneath and adjacent to the new kerb & gutter location and repair (where required), at the applicants expense, Council's Stormwater Drainage Infrastructure as per Council's Infrastructure specifications;
- d) On Elizabeth Avenue, adjacent to development, construct kerb and gutter, drainage pits and pipes to be confirmed in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction;
- e) Reconstruct the blind end of Elizabeth Avenue where the road pavement is more damaged as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.

The Robey Street public footpath shall be constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

Construction hold points and Council inspections are required at the following points:

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and
- (iii) at final completion.

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

Elizabeth Avenue footpath to be constructed to Council standard. This footpath should be accessible and be minimum width of 700mm

- 115 Prior to the issue of any 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.
- 116 Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:
 - a) The pathway as indicated on the landscape plan along the northern boundary is to remain private with a public Right of Footway over the path from Elizabeth Avenue to John Curtin Reserve and must be noted as such on any future strata title subdivision. Appropriate access control gates and ambient lighting is required to provide adequate safety for residents outside of daylight hours.

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- b) Restrictions on Use of Land and Positive Covenants for On-site Stormwater Detention systems and Stormwater Quality Improvement Devices (SQIDs). Refer to Appendices B and E of the SMTG for suggested wording.
- a) Waste collection is to be undertaken within the site by a private collection service using a small rigid vehicle until such time as Council vehicles are able to access the site.

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

- 117 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 118 That before entering a lease/occupancy agreement, all tenants and occupiers of the development is to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes. Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 119 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 120 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated and/or adjusted to match the proposed/existing levels as required by the development.
- 121 Prior to the issue of any Occupation Certificate, an application is to be made to Council for the new street numbers for the development. All street numbers are to be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 122 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - (a) All reduced levels shown upon the approved plans, with relation to the drainage, boundary and road reserve levels, have been strictly adhered to; and
 - (b) A Floor Space Ratio (FSR) of 2:1 and height of RL 27m AHD as approved under this Development Consent No. 16/165, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

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- (c) The development as built stands within Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264.
- 123 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 124 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 125 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 Bayside Council prior to the Issue of an Occupation Certificate.
- 126 Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 127 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.

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

- 128 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).
- 129 Any signage or advertising is subject to a separate approval (DA or complying development certificate).
- 130 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.
- 131 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 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.

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- 132 Ongoing maintenance of the road verges and footpaths and nature strips in Robey Street and Elizabeth Avenue 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.
- 133 The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 134 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 135 All intruder alarms shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations (Noise Control) Regulation 2008*, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
- 136 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (ii) Before 7 am or after 10 pm on any other day.

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- 137 All loading and unloading associated with the retail tenancies are to be undertaken within the ground floor loading dock.
- 138 The loading dock shall not be used between the hours of 6pm and 6am Monday to Sunday.
- 139 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 140 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 141
- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
- (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 142 All parking bays 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 vehicles are permitted to park in these areas.
- 143 You are advised that Bayside Council's current adopted flood level for this location is RL 5.99m AHD.
This building includes habitable/non-habitable areas that are below the flood level, the approved floor levels are 5.80m AHD for the commercial tenancies. Use of this development should reflect the flood risk.
- 144 Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 6.50 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood level.
- 145 The operation of the development and movements of vehicles for both the residential apartment and commercial/retail car park uses shall comply with the following requirements:
- a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
- b) The maximum size of vehicle accessing the loading bay shall be limited to 6.4m long Small Rigid Vehicle (SRV) (as denoted in AS2890.2);
- c) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading area;
- d) The maximum number of delivery vehicle on-site at any one time shall be limited to one (1).

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STATEMENT OF ENVIRONMENTAL EFFECTS

**Mixed Use Development
Section 4.55 (1A)**

19-25 Robey Street and 5- 5A Elizabeth Avenue, Mascot

31 October 2018

Prepared by Chapman Planning



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Annexure(s)

1. Architectural Plans

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1.0 INTRODUCTION and BACKGROUND

This statement has been prepared for Landmark Group Pty Ltd as part of the supporting documentation for a Section 4.55(1A) application for amendments to the approved plans associated with development consent No. 2016/165 for the construction of a five storey mixed use building at 19-25 Robey Street and 5-5A Elizabeth Avenue, Mascot.

A development application (DA 2016/165) was approved on 17/05/2018 for:

Integrated Development Application for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

A Section 4.55(1A) application was lodged to Council on 8/8/18 for the relocation of plant rooms, travel paths, realign substation, minor reconfiguration of bicycle parking and waste storage area behind retail unit 1, amendment to the ramp entry to ground floor residential units, reduction in floor area of retail units 1 and 2.

A further Section 4.55(1A) application was lodged to Council on 25/9/18 for modifications to basement design and deletion of Condition relating to waterproofing and tanking of the basement structure.

The Section 4.55(1A) application is for modifications to the development consent plans referred to in Condition 1 of the development consent.

The modifications are summarised as follows:

- Relocation of boundary stairs to retail to allow for wheelchair access.
- Metal fencing to rear boundaries.
- Metal fencing to terraces of Units 003, 004, 006, 007, 008.
- A reduction in the size of the sliding door and window openings, and the deletion of some windows to facades other than Robey Street. This results in a reduction in the glazing on the facades.

The subject site is located 130m east of Botany Road, which contains the Mascot Town Centre, with Sydney Kingsford Smith Airport being located a short distance to the south-west of the site. Mascot train station is located approximately 1.2km to the north-west, with a bus interchange located within 200m of the site along Botany Road.

In addition to this statement the S4.55 application is accompanied by the following:

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- *Architectural Plans numbered DA201 Revision F, DA202 – DA205 Revision D, DA301 Revision D, DA303 – DA304 Revision B dated 26 October 2018 prepared by DKO Architecture (Annexure 1)*

In this statement, the proposal is assessed in accordance with the relevant planning controls, being:

- *S.4.55(1A) Environmental Planning and Assessment Act, 1979,*
- *Botany Bay Local Environmental Plan 2013,*
- *Botany Bay Development Control Plan,*
- *S.4.15 Environmental Planning and Assessment Act 1979.*

2.0 SITE and LOCALITY

The subject site is known as 19-25 Robey Street and 5 and 5A Elizabeth Avenue Mascot and includes the following allotments: Lot 1 in DP946234, Lot 1 in DP 455491, Lot 1 in DP931264, Lot C in DP 418600, Lots 15-16-19 in DP 4115.

The subject site is located 130m east of Botany Road, which contains the Mascot Town Centre, with Sydney Kingsford Smith Airport being located a short distance to the south-west of the site. Mascot train station is located approximately 1.2km to the north-west, with a bus interchange located within 200m of the site along Botany Road.

The immediate locality is characterized by a mixture of residential, commercial and open space uses. The development to the north of the site includes single and two storey detached dwellings. A three storey residential flat building is located north-east of the site along High Street, with the Mascot Town Centre located further to the east along Botany Road.

The subject site and surrounding development is shown in the following aerial photograph.



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Source: SIX Maps

3.0 PROPOSED MODIFICATIONS

The S4.55(1A) application seeks modifications to the development consent plans of the approved development for a residential flat building.

The modifications are detailed below:

- Relocation of boundary stairs at the Robey Street frontage to allow for wheelchair access to the retail tenancies.
- Colourbond metal fencing to rear boundaries.
- Metal fencing to terraces of Units 003, 004, 006, 007, 008.
- A reduction in the size of the sliding door and window openings, and the deletion of some windows to facades other than Robey Street. This results in a reduction in the glazing on the facades.

4.0 LEGISLATION AND PLANNING CONTROLS

4.1 Section 4.55 Environmental Planning and Assessment Act, 1979

S.4.55(1A) of the *Environmental Planning and Assessment Act, 1979* (the Act) allows the consent authority (Bayside Council) to modify the development consent. Clause 4.55(1A) states:

(1A) Modifications involving minimal environmental impact

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

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

Subsections (1), (2) and (5) do not apply to such a modification.

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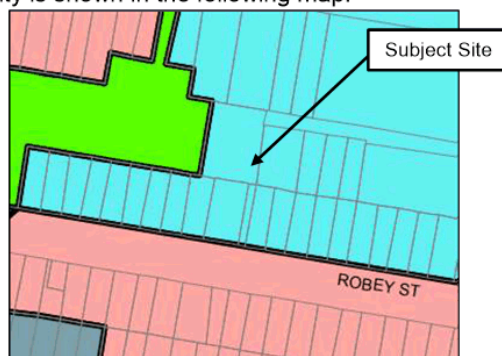
The proposed modifications meet the requirements of S.4.55(1A) of the Act, as follows;

- The proposed plan amendments apply to the mixed use development in accordance with development consent No. DA 2016/165.
- The proposed modifications apply to the reduction in door and window openings, and associated reduction in glazing on the side and rear elevations and minor ground floor modifications only. The modifications do not change the approved number of units, parking or built form of the development. On this basis the modification applies to the same land use with no change to the approved building form and the proposal meets the test of sustainably the same development.
- The proposed modifications present no change to the overall scale of the development and will not result in any additional amenity impact. It should be noted that the reduction in door and window openings on the side and rear elevations will result in a reduction in sight lines and potential overlooking upon adjoining properties. As such the modifications are considered to be of a minimum environmental impact.
- The application will be notified in accordance with Council's notification policy and any submission will be considered in the assessment of the application.

In accordance with Section 4.55(1A) this statement addresses the relevant matters prescribed in Section 4.15(1) of the Act.

4.2 Botany Local Environmental Plan 2013

The land subject to the development is zoned B2 – Local Centre under the *Botany Bay Local Environmental Plan 2013*. The zoning of the subject site and surrounding locality is shown in the following map.



Source: Botany Bay LEP 2013

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The objectives of the B2 Local Centre 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.*

The modifications to the approved mixed use development meet the relevant objectives of the zone as it continues to provide for retail use at the ground floor of the development to serve the needs of people within the locality.

Clause 4.3 Height of Buildings is applicable to the subject site containing a height control of 14m. The proposed modifications would not result in a change in the originally approved building height or built form on the site.

Clause 4.4 Floor Space Ratio does not apply to the modification application noting the proposal does not seek to alter the approved gross floor area.

Clause 6.1 Acid Sulfate Soils applies to the application being identified as containing Class 4 Acid Sulfate Soils. An Acid Sulfate Soil Screening report was conducted as part of the original application on the subject site and the provisions of Clause 6.1 of the LEP are therefore satisfied.

Clause 6.3 Stormwater Management a stormwater management plan was submitted as part of the original application demonstrating compliance with the drainage requirements of BBLEP 2013. The proposed modifications are minor and would not result in any adverse drainage impacts in this regard.

Clause 6.8 Airspace operations applies to the site as it is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24m) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application does not change the maximum height of the buildings on site.

Clause 6.15 Active Street Frontages applies to the subject site. The proposed modifications present minor reconfiguration to the previously approved ground floor stair entrance to the retail premises and will continue to present an active street frontage to Robey Street.

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4.3 Botany Bay Development Control Plan 2013

The relevant sections of the Botany Bay DCP 2013 are addressed below:

Part 3 General Provisions

3C Access & Mobility

The proposed modifications include relocation of front boundary stairs to allow for an accessible path of travel to the retail tenancies. The development continues to ensure the dignified, equitable and safe access to and within the building for people with a disability.

3I Crime Prevention Safety & Security

The proposed modifications include metal fencing to the rear boundaries and terraces of ground floor units to improve the safety and security of the ground floor component of the development.

Additionally, it is noted that window and door openings are reduced in size, however these openings/windows and balconies allow for passive surveillance of the public domain and communal areas within the development.

3H Sustainable Design

The modification application is accompanied by an updated BASIX Certificate in accordance with SEPP (Building Sustainability Index – BASIX) 2004.

The proposed minor modifications to glazing do not result in a reduction in cross-ventilated or hours of solar access for the units within the development.

Part 4C Residential Flat Buildings

Part 4C.2 Site Design

4C.2.2 Streetscape Presentation

The proposed modifications will not result in a significant change to the streetscape presentation of the approved mixed use development on the site. It is noted that the only change proposed to the street is the relocation of stairs at the ground floor entrance to the retail tenancies.

Part 4C.3 Building Design

4C.3.2 Fences

The proposed boundary fencing has been designed to a height of 1m – 1.8m along the side and rear boundaries.

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5.0 ENVIRONMENTAL ASSESSMENT

5.1 Building Design and Streetscape

The proposed modifications are consistent with the approved building form and scale, with the modifications confined to a reduction in glazing at the side and rear elevations with no significant change in the overall presentation of the building. The previously approved streetscape façade is not proposed to be changed and the development will continue to present to the public domain as previously approved. The proposed modifications to not alter approved dwelling mix, parking or gross floor area.

6.0 CONCLUSION

In conclusion it is considered that the modifications to the development consent plans are acceptable under the considerations of S4.55(1A) of the *EP&A Act 1979*. The following conclusions are made:

- *The modifications meet the provisions of Section 4.55(1A) of the Act noting the modifications meet the test of substantially the same development as the modifications do not result in significant change to the approved built form.*
- *The proposed modifications are minor and are restricted to minor modifications at the ground floor level and reduction in door and window openings/glazing at the side and rear elevations, noting there is no change to the height of the building and overall form and scale.*
- *The reduction in openings/glazing is minor and will not impact on residential amenity of the units with regard to solar access and cross ventilation.*
- *The modifications do not alter the previously approved gross floor area;*
- *The proposed modifications retain approved dwelling mix, parking, and landscaping.*

For reasons outlined in this Statement of Environmental Effects, it is my opinion that the Section 4.55(1A) application for modifications to the development consent plans for the mixed use development at 19-25 Robey Street and 5-5A Elizabeth Avenue should be granted development consent.

Chapman Planning Pty Ltd
Certified Practising Planners



Chapman Planning Pty Ltd

LIST OF ANNEXURES

1. Architectural Plans

