

JRPP No.	Item 1 (2009SYE001)
DA No.	200900262 - 139-143 Parramatta Road, Camperdown
Applicant:	Camperdown Square Developments Pty Ltd
Report By:	Marrickville Council

Assessment Report and Recommendation

Synopsis

Application to demolish part of the premises, excavate the site and construct a mixed use development containing five buildings, including adaptive reuse of heritage buildings, ranging in height from 2 storeys to a 5 part 6 storey building, containing a combined total of 188 dwellings, approximately 1,055sqm of retail/commercial space, off street car parking for 259 spaces, construct a new publicly accessible street connecting Denison Street to Australia Street, construct a publicly accessible pedestrian through site link connecting Denison Street to Australia Street, street tree planting and footpath upgrade works along Denison Street.

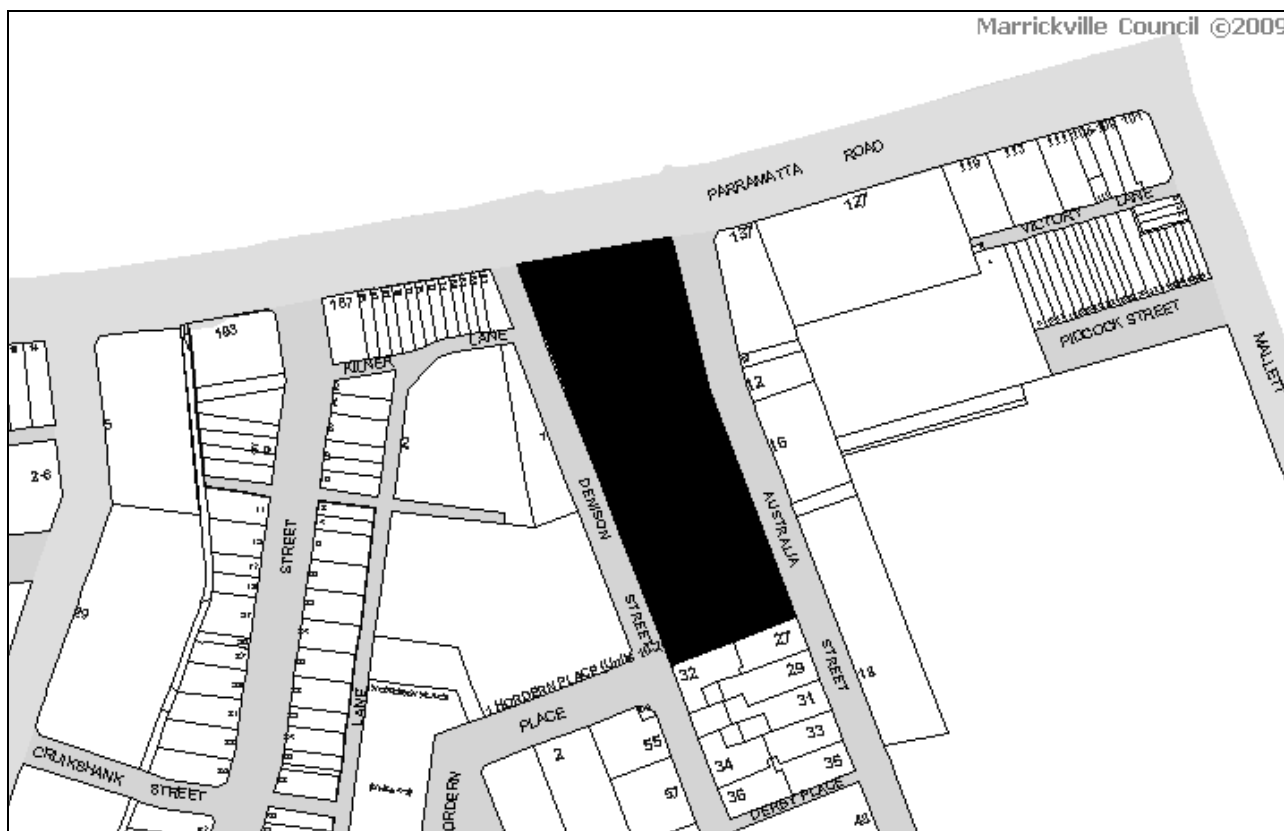
Eight (8) submissions were received in response to Council's notification of the proposal.

Despite minor variations from the site coverage, building setback, and landscaping controls contained in Marrickville Development Control Plan No. 35 – Urban Housing (Vol. 2) and the building height at the rear of site control contained in Marrickville Development Control Plan No. 28 – Urban Design Guidelines for Business Centres, the proposed development is considered to generally satisfy the objectives and design requirements contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and the Residential Flat Design Code, Marrickville Local Environmental Plan 2001, and the applicable provisions contained within and other relevant planning documents. The applicant proposes to retain the heritage significant industrial facades as part of the proposed development and the new buildings have been located, orientated and designed in a manner that is sympathetic and complementary to the existing built form and streetscape. The proposed development is considered to represent a high quality residential and commercial development that will revitalise this section of Parramatta Road and add positively to the housing stock in the area.

The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate term and conditions.

PART A - PARTICULARS

Location: Located on the southern side of Parramatta Road, between Australia Street and Denison Street, Camperdown.



Application Date: 20 July 2009 (amended plans and additional information submitted on 1 October 2009, 21 October 2009 and 30 October 2009)

Proposal: To demolish part of the premises, excavate the site and construct a mixed use development containing five buildings, including adaptive reuse of heritage buildings, ranging in height from 2 storeys to a 5 part 6 storey building, containing a combined total of 188 dwellings, approximately 1,055sqm of retail/commercial space, off street car parking for 259 spaces, construct a new publicly accessible street connecting Denison Street to Australia Street, construct a publicly accessible pedestrian through site link connecting Denison Street to Australia Street, street tree planting and footpath upgrade works along Denison Street.

Cost (est): \$45,300,000

Applicant: Camperdown Square Developments Pty Ltd

Zoning: General Business and Residential 'C'

PART B - THE SITE AND ITS ENVIRONMENT

Improvements: Single storey industrial building



Photo 1 – Parramatta Road elevation

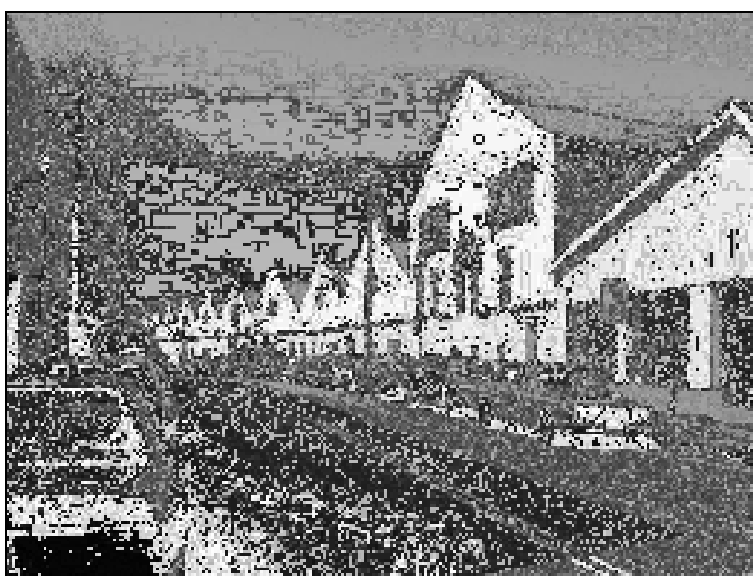


Photo 2 – Australia Street elevation

Current Use: Vacant

Prior Approval: Determination No. 200400785, dated 28 February 2007, granted a deferred commencement consent to an application to erect five new buildings ranging in height from two storeys to predominantly five storeys, refurbishment of the existing High Bay building, construct 155 dwellings and 24 terrace houses, provide retail floor space on the ground floor of Building A, six commercial tenancies and six home offices in Building B, basement car parking, construct a public road to link Australia Street and Denison Street and carry out public domain improvements including the planting of street trees on the Denison and Australia Streets and erect a bus shelter on the Parramatta Road frontage. The Determination was modified on 3 February 2009. The applicant satisfied the matters referred to in Part A of the Determination and the consent became operative on 6 February 2009.

Environment: The subject site is located in an area made up of a mix of retail, commercial, residential and industrial uses

PART C - REQUIREMENTS

- 1 Zoning**
Is use permissible in zoning? Yes
- 2 Development Standards (Mandatory Requirements):**
- | Type | Required | Proposed |
|-----------------------------|-----------------|-----------------|
| Floor Space Ratio (Block A) | 2.29:1 | 2.29:1 |
| Floor Space Ratio (Block B) | 1.66:1 | 1.66:1 |
| Maximum Height (Block A) | RL36.80 | RL36.50 |
| Maximum Height (Block A) | RL32.45 | RL31.75 |
| Adaptable dwellings | 19 | 19 |
- 3 Departures from Council's Codes and Policies:**
- | Type | Required | Proposed |
|---------------------------------|-------------------------|-----------------|
| Height at rear of site (Site A) | See main body of report | |
| Building setbacks (Site B) | See main body of report | |
| Site Coverage (Site B) | See main body of report | |
| Landscaped Area (Site B) | See main body of report | |
- 4 Advertising / Notification:**
Required: Yes (newspaper advertisement, on-site notice and resident notification)
Submissions: Eight (8) submissions received
- 5 Other Requirements:**
ANEF 2029 Affectation: 20-25 ANEF
Marrickville Section 94 Contributions Plan 2004

PART D - ISSUES

1. Background

On 23 December 2004, a combined rezoning submission and development application for a mixed use residential development was submitted to Council. The rezoning submission sought to rezone the site from Light Industrial to part General Business (on land fronting Parramatta Road) and part Residential 'C' (on the remainder of the site) under Marrickville Local Environmental Plan (MLEP) 2001. It was also proposed to amend MLEP 2001 to include site specific controls relating to floor space ratio and height which specifically related to the proposed development.

MLEP 2001 (Amendment No. 33) which rezoned the subject site and included site specific controls relating to floor space ratio and height and was gazetted on 16 February 2007 and Council issued Determination No. 200400785, dated 28 February 2007, which granted a deferred commencement consent to an application to erect a mixed use development on the subject parcel of land. That development included the following:

- Construction of five new buildings ranging in size from 2 storeys and an attic to six storeys;
- Refurbishment of the existing 'High Bay' on the site;
- Construction of 155 residential flat units and 24 terraces;
- Creation of 1,739sqm of general business floor space;
- Basement car parking up to three (3) levels providing 274 car parking spaces;
- Construction of a new publicly available road (New Street) to link Australia Street and Denison Street and three (3) communal courtyards which fronted Denison Street and provided three (3) pedestrian links through the site; and
- Public domain improvements including the planting of street trees on Denison and Australia Street and incorporation of a new bus shelter into the Parramatta Road frontage.

A copy of the site plan and elevation of the approved development are reproduced below:

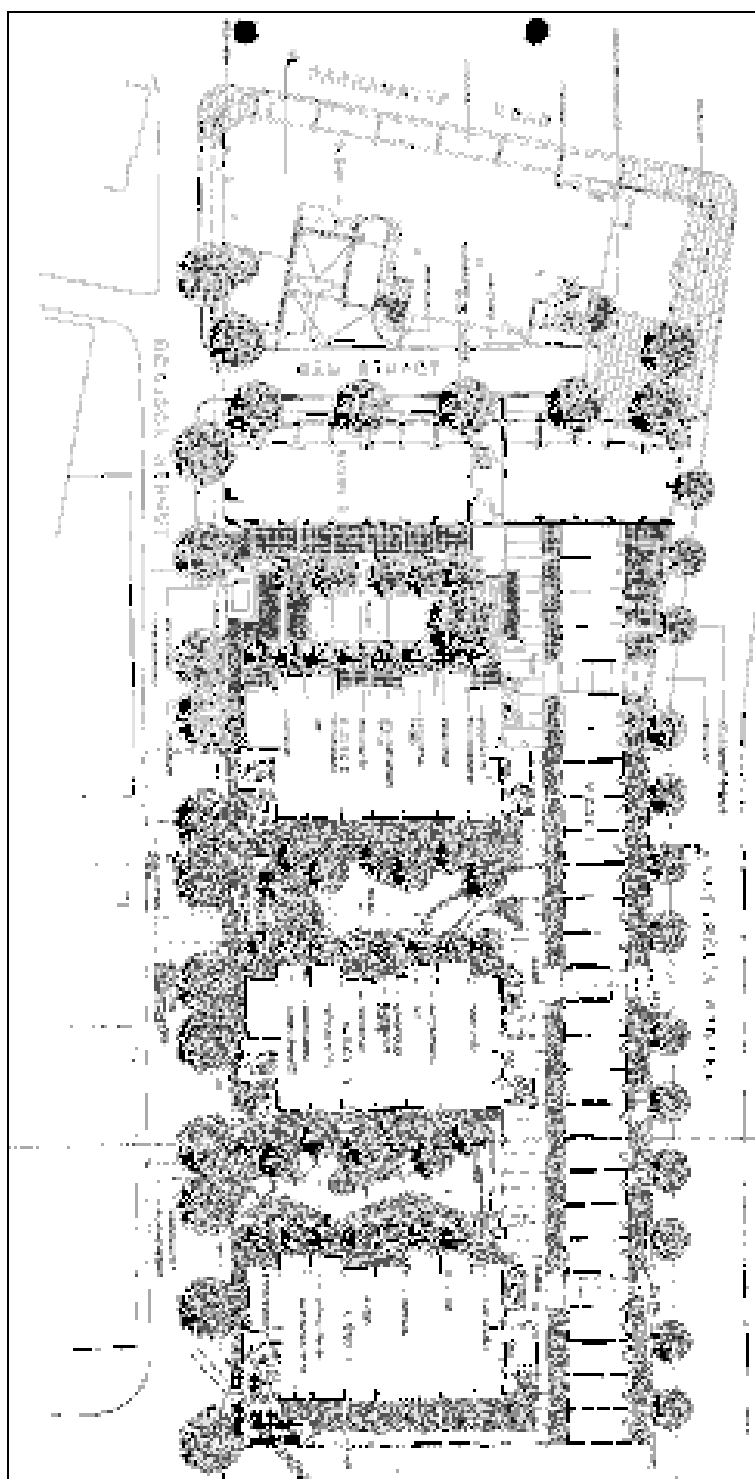


Image 1 - Site plan of approved development

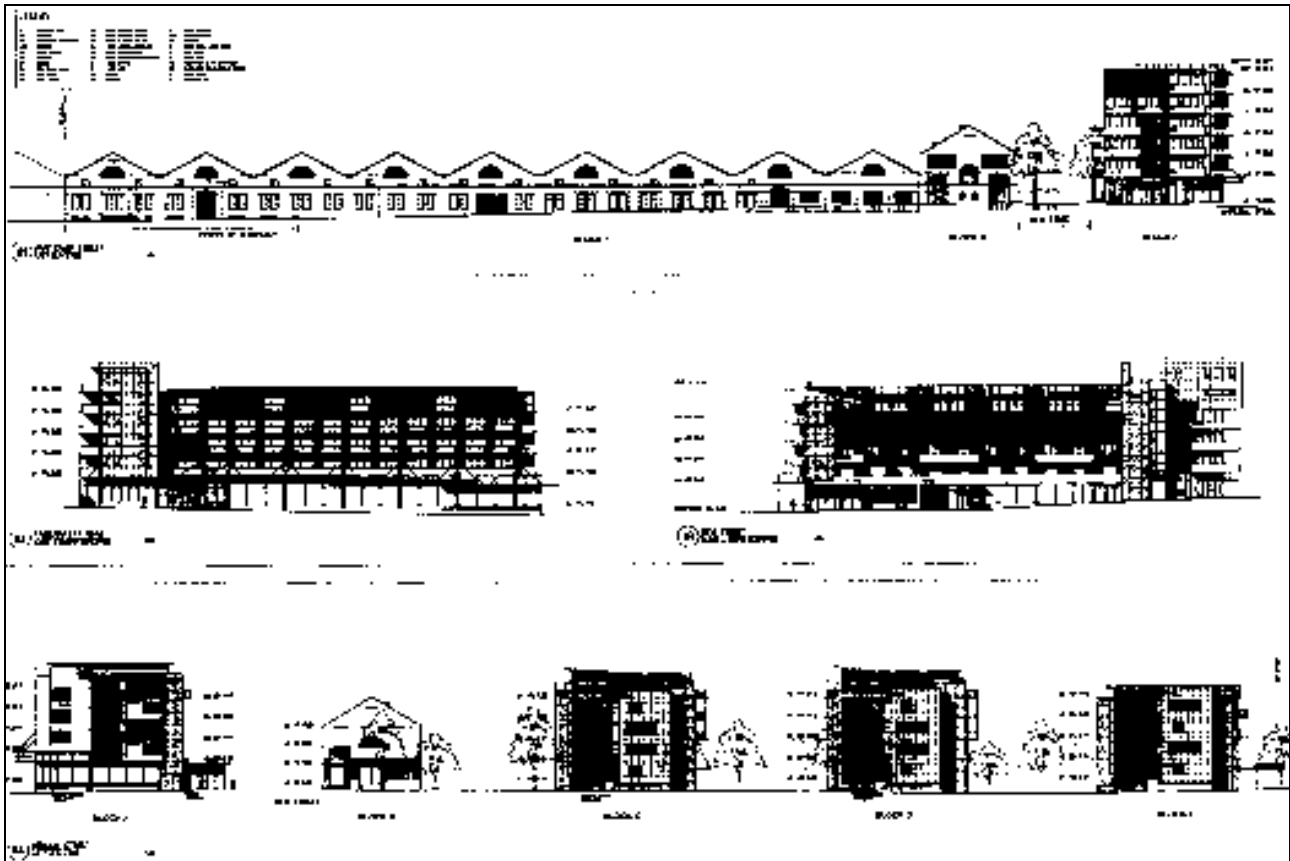


Image 2 - Elevations of approved development from Australia Street, Denison Street, New Street (proposed new road) and Parramatta Road.

The applicant satisfied the matters referred to in Part A of the Determination and the consent became operative on 6 February 2009.

2. The Site and Surrounding Development

The subject site is located on the southern side of Parramatta Road, between Australia Street and Denison Street, Camperdown. The site is legally described as Lots A, B, C and D in DP400192 and is commonly referred to as 139-143 Parramatta Road, Camperdown.

The site is generally rectangular in shape having the following boundary dimensions:

- 68.315 metres to the northern (Parramatta Road) frontage;
- 162.83 metres to the eastern (Australia Street) boundary;
- 174.095 metres to the western (Denison Street) boundary; and
- 55.84 metres to the southern boundary.

The site has an area of 9,903sqm and a 1.81 metre fall from the north-east corner (RL 16.31) to the south west corner (RL 14.5). Existing on the site is a single storey industrial building.

The site is located in an area characterised by both residential and small to large scale industrial uses:

- To the north the site is bounded by Parramatta Road. Directly across Parramatta Road is Pymont Bridge Road and a range of retail uses, including a service station (see photo 3).



Photo 3 – View looking north across Parramatta Road

- To the immediate south the site is adjoined by an industrial complex containing eight (8) industrial units (see photo 4).

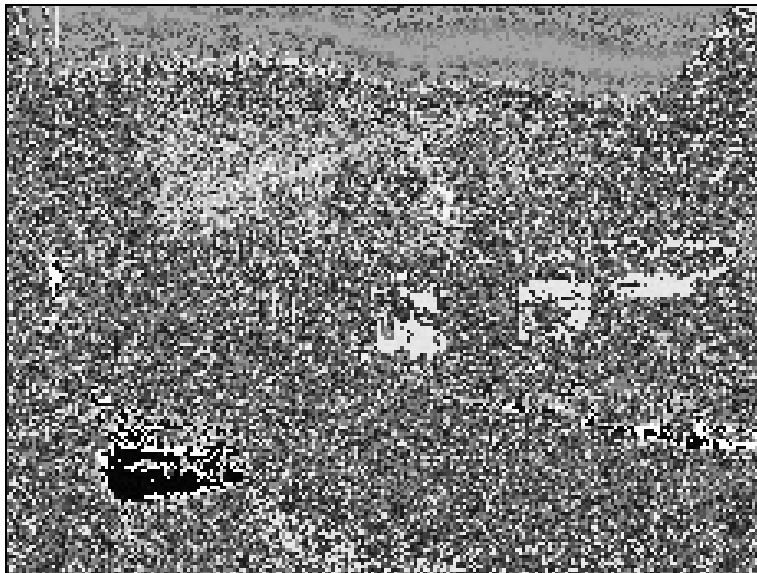


Photo 4 – View looking south along Australia Street

- To the east of the site is a mix of retail and residential development and open space. A two storey retail/commercial building is located on the corner of Parramatta Road and Australia Street, with a number of two storey terrace houses behind this building to the south. A three (3) storey residential warehouse conversion, a museum and Camperdown Park are located further to the south (see photos 5 and 6).



Photo 5 – View looking east across Australia Street



Photo 6 – Camperdown Park located on the eastern side of Australia Street

- To the west of the site is a mix of residential, commercial and industrial development (see photo 7).



Photo 7 – View looking down Denison Street towards Parramatta Road

3. The Proposal

Approval is sought to demolish part of the premises, excavate the site and construct a mixed use development containing five buildings, including adaptive reuse of heritage buildings, ranging in height from 2 storeys to a 5 part 6 storey building, containing a combined total of 188 dwellings, approximately 1055sqm of retail/commercial space, off street car parking for 259 spaces, construct a new publicly accessible street connecting Denison Street to Australia Street, construct a publicly accessible pedestrian through site link connecting Denison Street to Australia Street, street tree planting and footpath upgrade works along Denison Street.

The applicant made the following submission in describing the proposal in the Statement of Environmental Effects submitted with the development application:

“The subject DA seeks consent for:

- *excavation of the site including demolition of existing building structures (except identified heritage structures) and other improvements;*
- *detailed design and construction of 5 buildings (Buildings A to E), comprising:*
 - *Building A – a part 5, part 6 storey retail / residential building fronting Parramatta Road;*
 - *Building B – a 3 storey (+ mezzanine) mixed retail / commercial / residential to the south of Building A and fronting the new street. The proposal includes the adaptive reuse of the High Bay building and retention of its Australia Street and Denison Street facades and re-use of other building fabric;*
 - *Buildings C and D – 5 storey residential buildings fronting Denison Street; and*
 - *Building E - 2 storey residential terraces fronting Australia Street including the retention of the existing Australia Street heritage facade and re-instatement of the masonry walling to its original face brick finish;*
- *a Gross Floor Area (GFA) of 18,520sqm comprising 1,055sqm of retail / commercial space and 17,465 m2 of residential space;*
- *car parking for 259 spaces (including 26 disabled spaces);*
- *design and construction of a new publicly accessible street connecting Denison Street and Australia Street (between Building A and B);*
- *design and construction of a new publicly accessible through-site link mid-way through the site connecting Denison Street and Australia Street;*
- *street tree planting and footpath upgrade works along Denison Street; and*
- *approximately 2,790sqm of landscaped area.”*

The applicant made the following submission in describing the proposed development when compared to the previously approved development:

“The proposed development, as described in the preceding sections, seeks to build on the many positive attributes of the existing approval and results in a number of additional public and environmental benefits. The most obvious difference between the approved scheme and the proposed development is the reconfiguration of new residential buildings on the western side of the site fronting Denison Street, the creation of a central area of open space and much clearer second public link through the site. The proposal maintains the same floor space as previously approved but provides a stronger and more appropriate urban design response and results in new buildings relating more appropriately to the heritage item, being the Australia Street facade.”

A copy of the site plan, floor plans, elevations and a photomontage of the proposed development as submitted with the application are reproduced below:

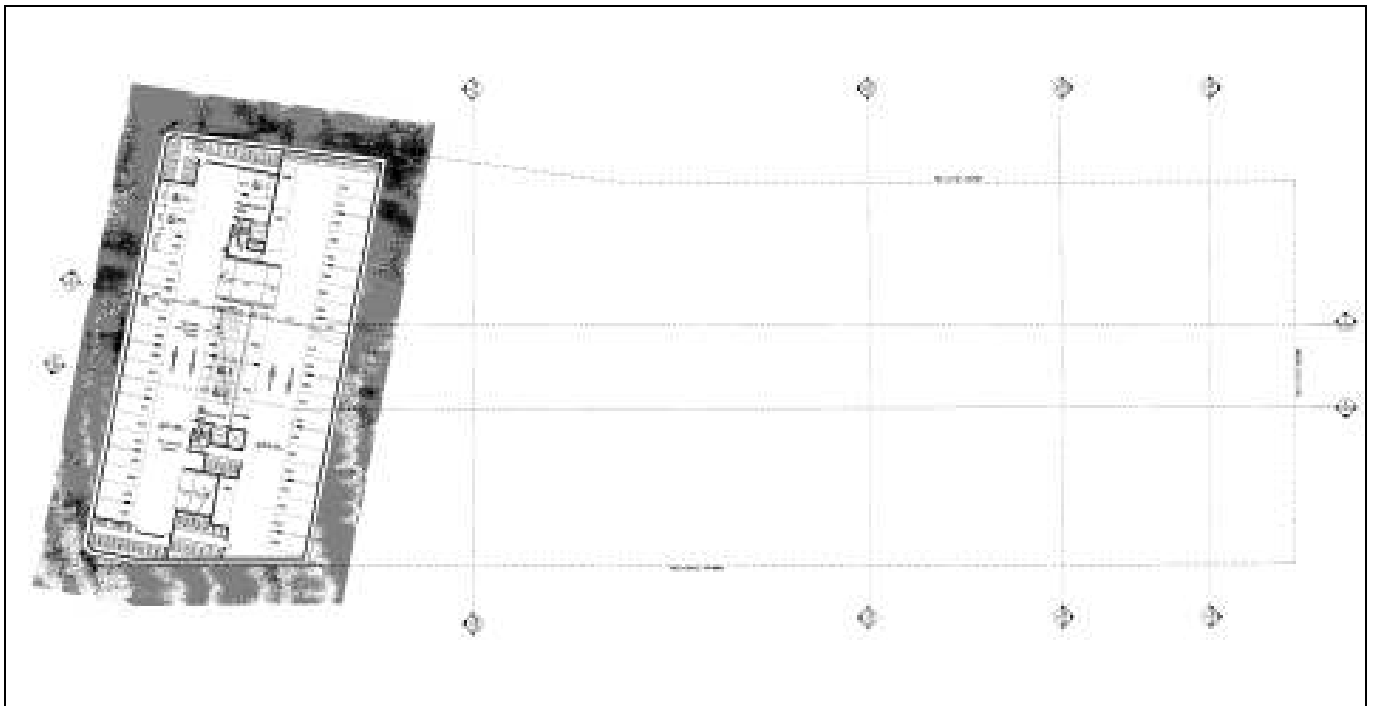


Image 1 – Basement Level 2 Plan

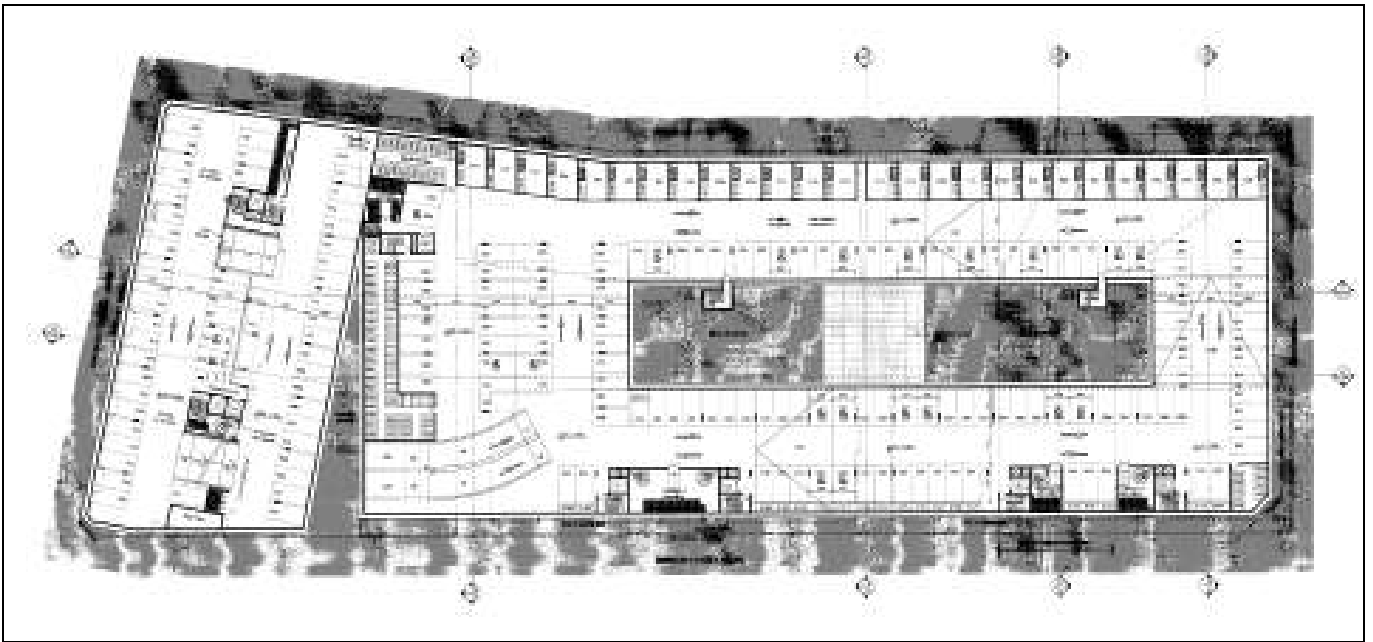


Image 2 – Basement Level 1 Plan

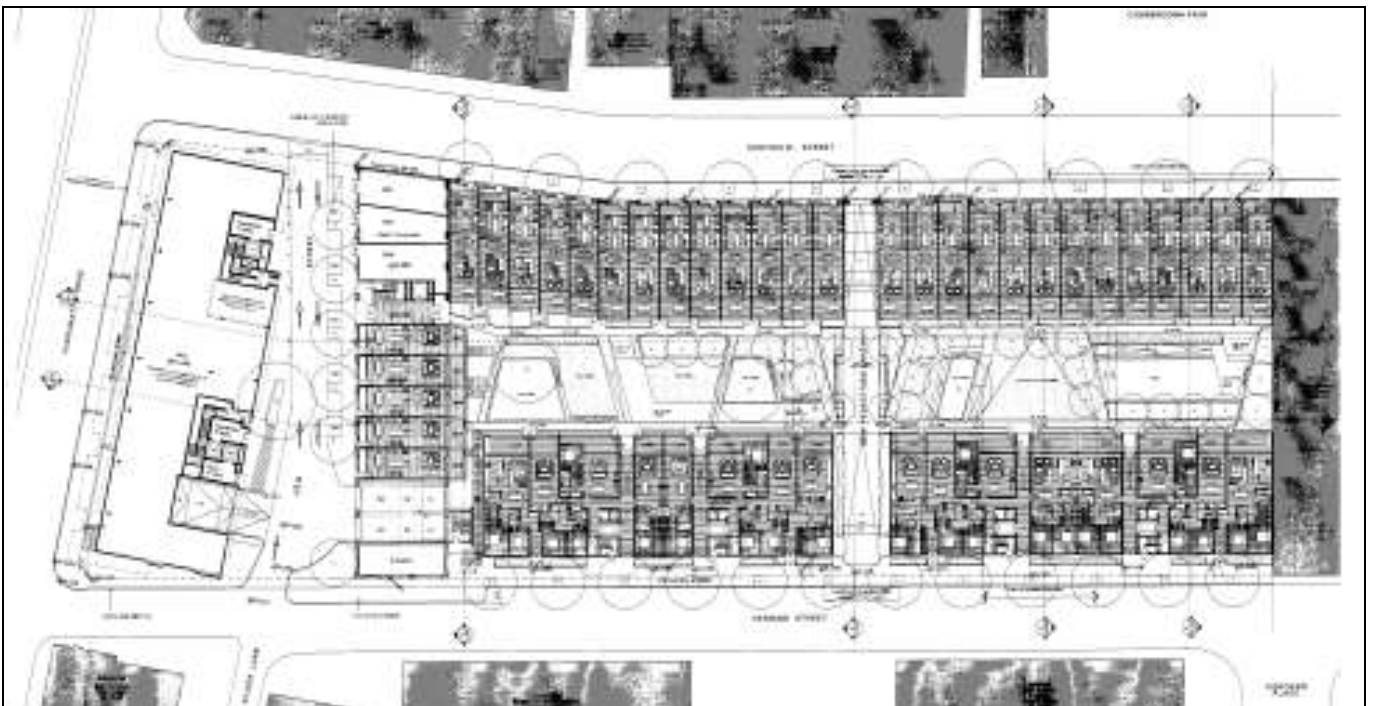


Image 3 – Ground Floor Plan



Image 4 – First Floor Plan

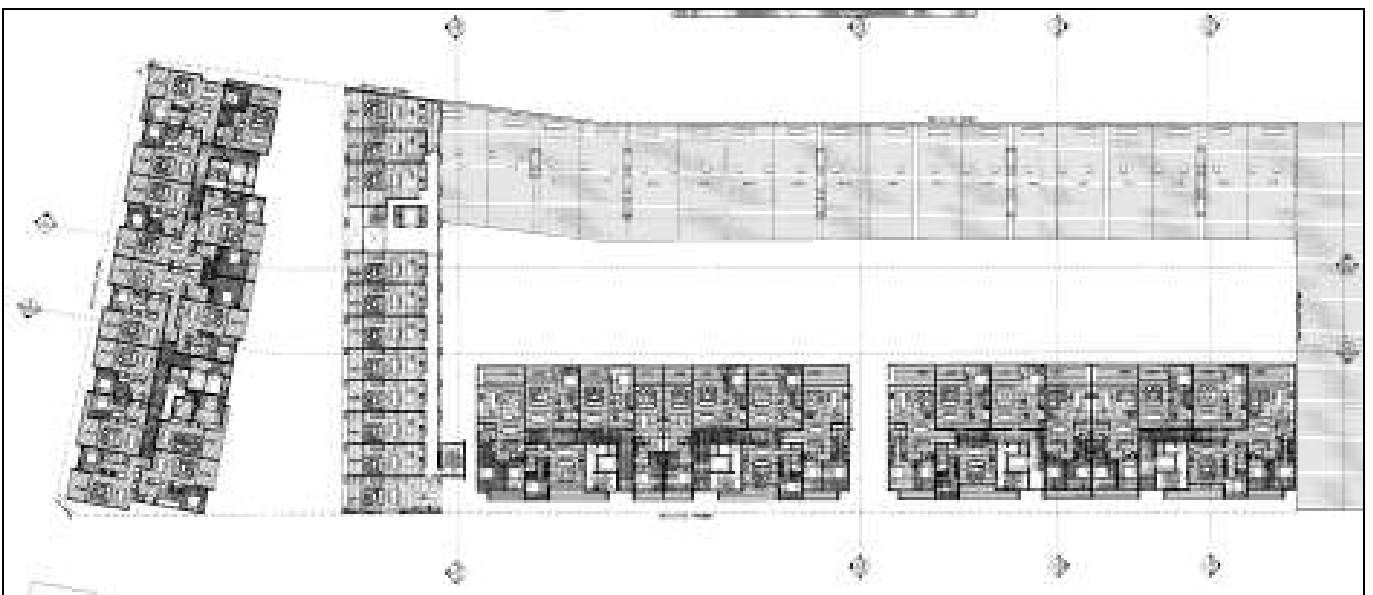


Image 5 – Second Floor Plan

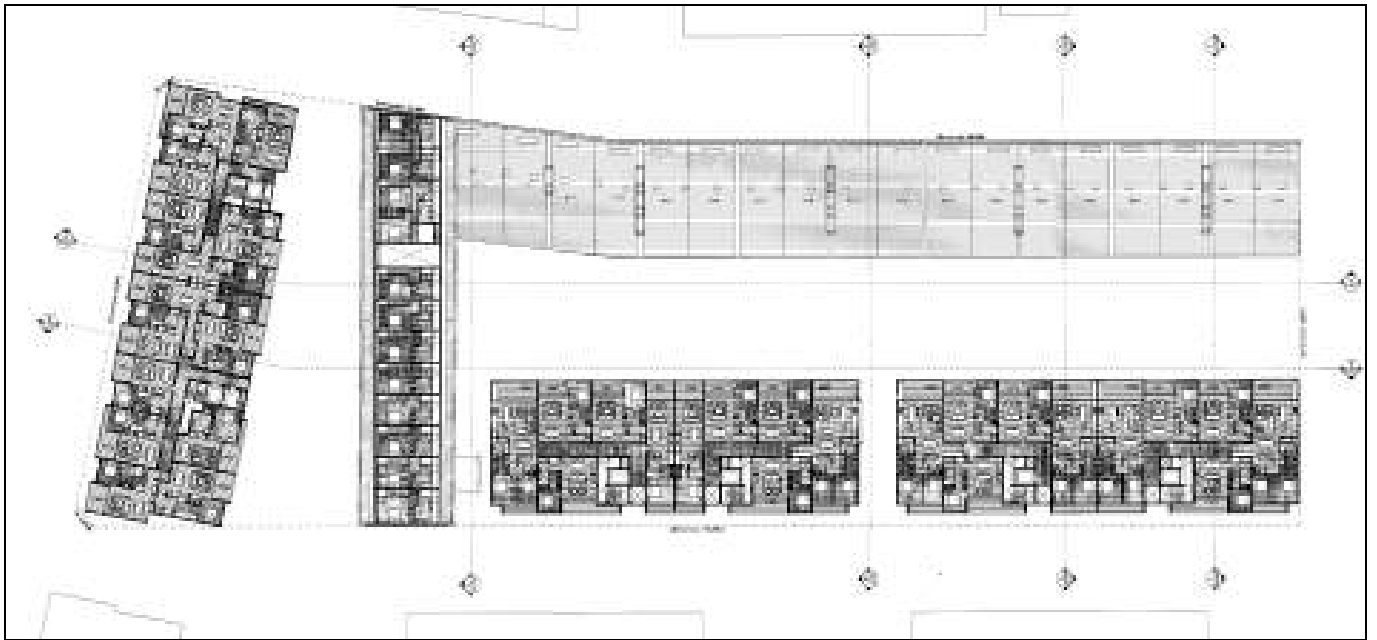


Image 6 – Third Floor Plan

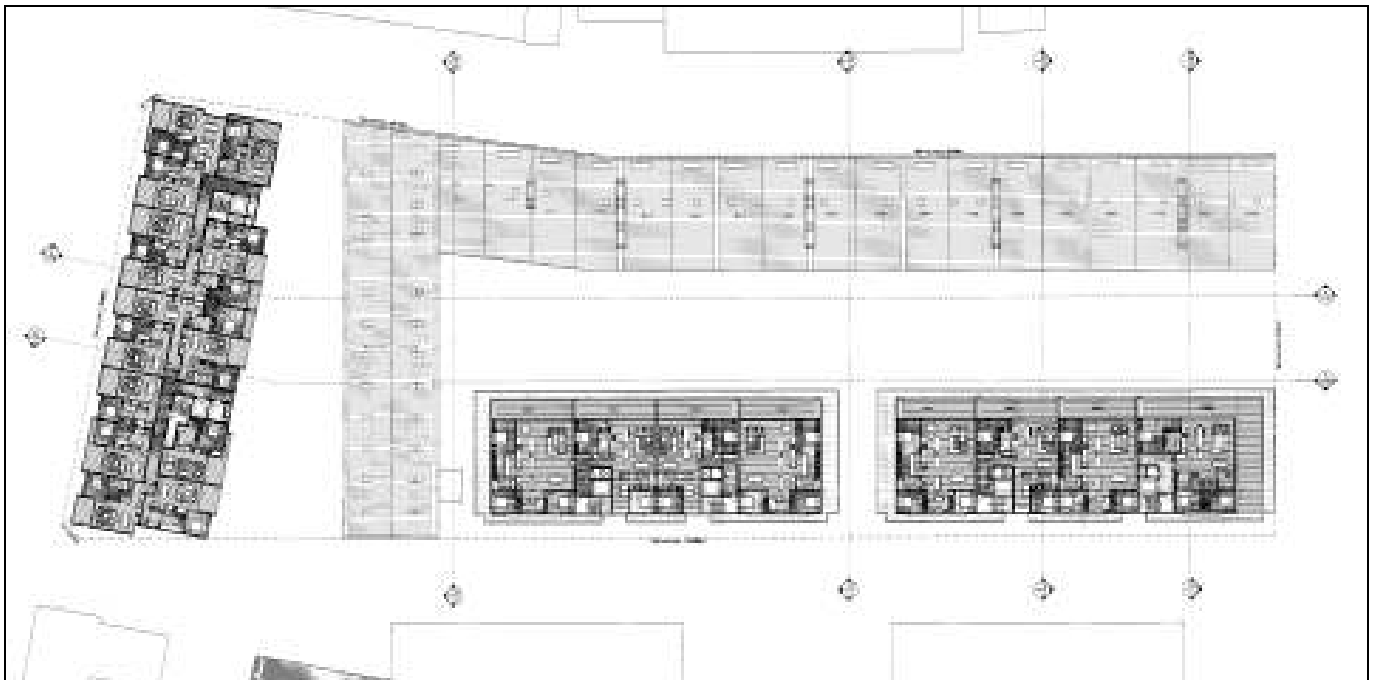


Image 7 – Fourth Floor Plan

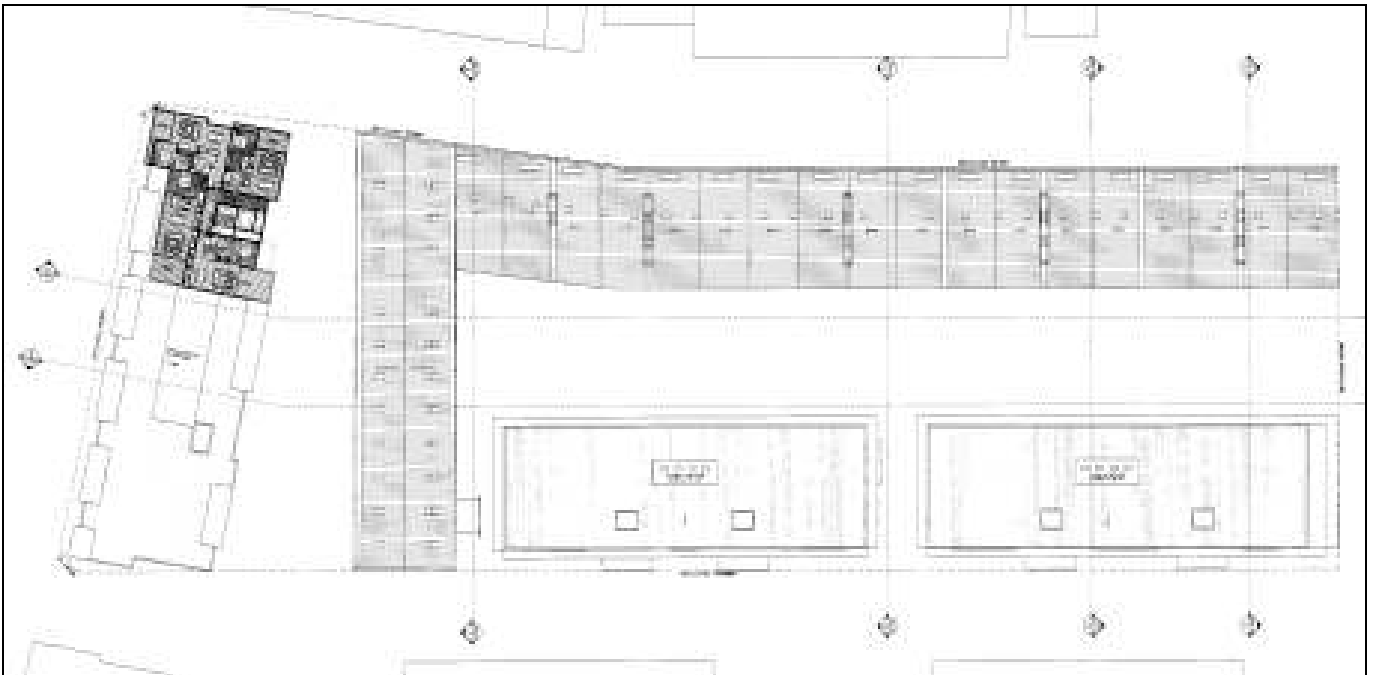


Image 8 – Fifth Floor Plan

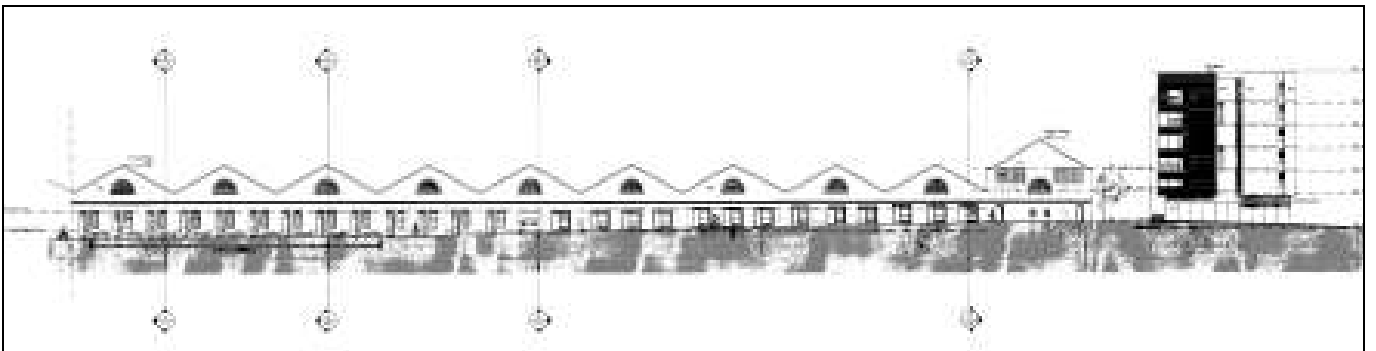


Image 9 – Australia Street Elevation



Image 10 – Denison Street Elevation



Image 11 –Parramatta Road Elevation



Image 12 – Photomontage of Parramatta Road Frontage

4. Planning Instruments and Controls

The following Planning Instruments and Controls apply to the proposed development:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- Marrickville Local Environmental Plan 2001;
- Marrickville Development Control Plan No. 19 - Parking Strategy;
- Marrickville Development Control Plan No. 27 - Waste Management;
- Marrickville Development Control Plan No. 28 - Urban Design Guidelines for Business Centres;
- Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls;
- Marrickville Development Control Plan No. 31 - Equity of Access and Mobility;
- Marrickville Development Control Plan No. 32 - Energy Smart Water Wise;
- Marrickville Development Control Plan No. 35 – Urban Housing (Vol. 2);

- Marrickville Development Control Plan No. 38 - Community Safety; and
- Marrickville Section 94 Contributions Plan 2004.

5. State Environmental Planning Policy - (Infrastructure) 2007

The subject site has a frontage to Parramatta Road which is a classified road. Given the location of the subject site Clause 101 and 102 of State Environmental Planning Policy - (Infrastructure) 2007 prescribe:

“101 Development with frontage to classified road

“(1) The objectives of this clause are:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.”*

And,

“102 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*
 - (a) a building for residential use,*
 - (b) a place of public worship,*
 - (c) a hospital,*
 - (d) an educational establishment or child care centre.*
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) in any bedroom in the building—35 dB(A) at any time between 10pm and 7am,*
 - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.”*

The proposed development was referred to the Roads and Traffic Authority (RTA) for comment in accordance with Clause 104 of Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007.

The Sydney Regional Development Advisory Committee (SRDAC) considered the traffic impacts of the proposed development at its meeting on 27 August 2009 and advised:

"The RTA considers the Statement of Environmental Effects (SEE) and accompanying traffic report prepared by Colston, Hunt, Budd & Kafes Pty Ltd to be inadequate in addressing road and traffic issues. The RTA requests the following information be provided to enable an appropriate assessment of the proposed development:

- 1. In accordance with AS 2890.1 – 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres within the subject site from the property boundary to allow simultaneous entry and exit movements. Council should ensure that the redesigned new street complies with the above standard and should ensure that the design of the proposed accesses to the basement car parking areas from the proposed new road and turn around area do not cause conflicting vehicular movements and that adequate sight distance is provided for vehicles entering and exiting the basement car parks.*
- 2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 2004 (Parking Facilities, Part 1: Off-street car parking) and AS 2890.2 – 2002 (Parking Facilities, Part 2: Off-street commercial vehicle facilities). The RTA has concerns for the potential for conflicting vehicular movements at the bottom of the entry/exit ramp to the car park to the larger residential car park.*
- 3. Council should ensure that adequate loading docks are provided within the site for deliveries to the retail/commercial component of the development as well as catering for furniture removalist vehicles for the residential component of the development. Loading docks have not been provided on the proposed new street or in the basement car parking areas of the development. Service areas should be designed to provide separation between service vehicles and car movements in accordance with the RTA's 'Guide to Traffic Generating Developments'.*

The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, must be in accordance with AUSTROADS. In this regard, a plan shall be submitted to the RTA, which shows that the proposed development complies with the manoeuvrability requirements of the Australian Standard.

- 4. Council is to ensure that appropriate waste collection management is provided for the site so that on-street waste collection is collected at appropriate times and collection trucks don't adversely impact on the traffic flow efficiency and parking on the local road network.*
- 5. The car parking provision is to be to Council's satisfaction.*
- 6. The proposed development should be designed such that road traffic noise from Parramatta Road is mitigated by durable materials, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.*

7. *The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the RTA for assessment. The developer is to meet the full cost of the assessment by the RTA.*

This report would need to address the following key issues:

- a) *The impact of excavation/rock anchors on the stability of Parramatta Road and detailing how the carriageway would be monitored for settlement.*
 - b) *The impact of the excavation on the structural stability of Parramatta Road.*
 - c) *Any other issues that may need to be addressed. (Contact: Geotechnical Engineer Stanley Yuen on phone 8837 0246 or Graham Yip on phone 8837 0245 for details).*
8. *A full time 'No Stopping' parking restriction shall be applied along the full length of the Parramatta Road frontage of the subject site with the exemption of any existing bus stop, at full cost to the developer.*

Prior to implementing this full time parking restriction, the developer is to contact the RTA's Traffic Management Services on 88492928, for a 'Work Instruction'.
 9. *The required sight lines to pedestrians or other vehicles in or around the proposed new road and entries/exits for the basement car parks are not to be compromised by landscaping or other vegetation.*
 10. *Consideration should also be given to providing bicycle parking facilities either within the commercial development or close to it, as well as end trip facilities such as showers, changing rooms, etc. to encourage bicycle use for travelling to and from the development. It is noted that the traffic report addresses the provision of bicycle parking however this is not reflected on the plans.*
 11. *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.*
 12. *A Road Occupancy Licence should be obtained from the RTA for any works that may impact on traffic flows on Parramatta Road during construction activities.*
 13. *All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Parramatta Road.*
 14. *Council should ensure that post development storm water discharge from the subject site into the RTA drainage system does not exceed the predevelopment discharge.*

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

Details should be forwarded to:

*The Sydney Asset Management
Roads and Traffic Authority
PO Box 973 Parramatta CBD 2124.*

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

15. *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.*
16. *All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.*
17. *All work is to be at no cost to the RTA."*

The application was also considered by Council's Development Control Engineer who advised:

- The "new road" shall be a private road with a public right of access. Council does not wish to take ownership of the "new road". Access to the "new road" shall be via thresholds at the intersections of both Australia Street and Denison Street;
- Access to the "new road" from Denison Street is to be restricted to "left in only" with no exit from Denison Street. The access via Australia Street shall be a minimum width of 5.5m wide for a distance of 6m within the "new road";
- The kerb and gutter on the eastern side of Denison Street shall be re-aligned from the "new road" to where the "on street" parking commences to provide a 2.2m wide parking bay (not 1.6m as currently shown);
- The analysis of all the intersections is to be re-assessed using SIDRA based on the re-assignment of traffic data resulting from the "left in only" treatment of the "new road" at Denison Street and based on a proposed median island in Salisbury Road and a half road closure proposed at Cardigan Street. Electronic copies of the SIDRA input and analysis shall be provided to Council and the RTA for review;
- A turning circle analysis is required at the intersection of Parramatta Road and Denison Street to ensure that a Medium Rigid Vehicle can make the turn into Denison Street from Parramatta Road. Amended plans shall be submitted to Council for review;
- A loading bay is to be provided to the commercial building off the "new road" for a Medium Rigid Vehicle. The loading bay shall be designed to allow vehicles to enter and leave from Australia Street in a forward direction. This shall be demonstrated by the use of turning circles;
- As there will be no vehicles exiting via Denison Street the "new road" will need to have a turning area for vehicles that enter via Australia Street and park on the "new road" to be able to turn around and exit via Australia Street. Details of the proposed turning area shall be submitted to Council.
- The proposed location of the bus stop on Parramatta Road shall be shown on the plans;
- All parking and vehicle access to the development shall comply with AS2890.1-2004 and AS2890.2-2002;
- A check of the "new road" design shall be undertaken to ensure that overland flows with the road drain out to Denison Street and not into the underground car park. This check shall be undertaken for a 1 in 100 year storm;
- The proposed new drainage line from the new road to the existing drainage in Denison Street shall be a minimum 375mm diameter pipe; and
- It is proposed that the footpaths adjacent to the development be upgraded to a better standard than asphalt to ensure the amenity of the area is in keeping with the standard of the development. Details of a suitable footpath treatment shall be submitted to Council.

The applicant submitted amended plans and additional information which responded to the comments from the SRDAC and Council's Development Control Engineer. Council's Development Control Engineer has reviewed the amended plans and additional information and raised no objection to the proposed development subject to the imposition of appropriate conditions which have been included in the recommendation.

Furthermore, as the residential component of the proposed development is sensitive to traffic noise, the applicant submitted an Acoustic Assessment Report prepared by Arup Acoustics as part of the subject development application. The Acoustic Assessment Report prepared by Arup

Acoustics indicates that supplementary glazing will be required for all affected residential spaces in Building A in order to meet the internal acoustic requirements prescribed under State Environmental Planning Policy - (Infrastructure) 2007. No specific noise control measures to mitigate traffic noise from Parramatta Road are required for buildings to the south of Building A.

Given the above the proposed development is considered reasonable having regard to State Environmental Planning Policy - (Infrastructure) 2007.

6. State Environmental Planning Policy No. 55 - Remediation of Land

Under the provisions of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls (DCP 29) Council must not consent to the carrying out of any development on land unless:

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

The applicant submitted a Preliminary Contamination Assessment undertaken by Douglas Partners. That report found:

- All of the reported contaminant concentrations for the identified potential range of inorganic and organic analytes to be within the NSW EPA Health-Based Investigation Levels for residential sites.*
- The majority of heavy metal concentrations to be within investigation levels, with the exception of a sample in the vicinity of Bore 7 where marginal zinc exceedance was recorded. The impact associated with the detected zinc level in Bore 7 is assessed to be insignificant. The report notes that a sample collected at deeper depth was well within the guidelines, suggesting that the marginal zinc exceedance was confined to the top 0.2-0.5 metres of the site.*

The report concluded that:

“that the site is suitable for the proposed construction of the mixed residential and commercial buildings subject to the removal and validation of the existing or identified underground storage tanks and the removal of the top layer of soil within the vicinity of Bore 7 if the area is not designated to be permanently paved and/or capped under building footprints.”

Given the above, it is considered that the site is capable of being remediated for residential purposes.

7. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65) was released as a part of the Design Quality Program that was announced by the then NSW Premier in October 2000. The plan was gazetted on 17 July 2002. The proposed development is defined under SEPP 65 as a residential flat building and as such the provisions of SEPP 65 apply to the proposed development. The SEPP highlights the following ten design quality principles to guide architects designing residential flat buildings and to assist councils in assessing these developments.

- Principle 1 – Context
- Principle 2 – Bulk and scale
- Principle 3 – Built form
- Principle 4 – Density
- Principle 5 – Resource, energy and water efficiency
- Principle 6 – Landscape design
- Principle 7 – Amenity
- Principle 8 – Safety and security
- Principle 9 – Social dimensions
- Principle 10 – Aesthetics

The Residential Flat Design Code (Design Code) is a set of guidelines that provides benchmarks for better practice in the planning and design of residential flat buildings to achieve environmental sustainability, improved energy efficiency and residential amenity and higher design quality to improve the presentation of the building to the street. The Code achieves this by providing controls to ensure that developments respond to their local context, and provide a suitable site analysis and quality design. As assessment of the development against the principles contained in SEPP 65 and the guideline controls contained in the Design Code is provided below:

Principle 1 – Context:

Principle

Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts under going a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

The proposed development is considered to respond to the context of the site. The applicant seeks to retain and adaptively re-use the elements of the existing buildings that contribute to the character of the area such as the Australia Street façade. The proposed development includes a new publicly accessible street connecting Denison Street and Australia Street, and a new publicly accessible through-site link mid-way through the site connecting Denison Street and Australia Street to improve vehicular and pedestrian movements in and around the site. The buildings proposed as part of the proposed development all address the street and significant public domain improvements, including widened footpaths and street tree planting, are proposed to complement the residential character of the proposed development. Building A which fronts Parramatta Road includes a showroom at ground level with residential apartments provided on the levels above. The apartments that face Parramatta Road have been designed with acoustic enclosures to ameliorate the road noise while providing north facing balconies and district views.

Principle 2 – Bulk and Scale:

Principle

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of an area.

The proposed development is considered to respond to the desired future character of the area. The proposed development satisfies the site specific floor space ratio and height controls that were developed under MLEP 2001 Amendment No. 33 which rezoned the subject site from Light Industrial to part General Business and Part Residential 'C'.

The height and scale of the proposed development also compares favourably to the Franks building which is located in the Union Square Development at 2 Cardigan Lane (to the west of the site on the opposite side of Denison Street) which is a 6 storey warehouse conversion. Council has also recently considered a development application which sought to demolish the dwelling houses located at 163-185 Parramatta Road (also to the west of the site on the opposite side of Denison Street) and to erect a building which is predominantly six storeys in height containing two (2) shops and 27 dwellings. As that application was a Crown development application lodged by Housing NSW the written approval of the Minister of Planning was required to refuse the application under Section 116C of the Environmental Planning and Assessment (EP&A) Act 1979. Council requested the Minister for Planning concur with the Council's recommendation to refuse the application. Since that time, the Minister for Planning has advised that she does not agree with Council's proposed refusal of the application and in accordance with the provisions of Section 116E(4)(c) of the EP&A Act, requested that Council provide the Department of Planning with draft conditions. Council provided draft conditions on 16 October 2009, however to date no consent has been issued.

Council is also currently considering a development application (DA200900321) which seeks to convert the existing warehouse building at 163-185 Parramatta Road, commonly referred to as the Strathfield Car Radios building, into a five storey boarding house with a ground level showroom fronting Parramatta Road.

Given the above, the bulk and scale of the proposed development is considered to respond to the desired future character of the area.

Principle 3 - Built Form:

Principle

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The proposed development consists of varied built forms which provide an appropriate response to the building's purpose and the site's context. Building A which fronts Parramatta Road is broken into vertical bays which respond to the retail subdivision pattern and building form which exists along Parramatta Road. Building E which fronts Australia Street consists of attached dwellings which are set behind and adaptively re-use the existing industrial façade which is listed as a heritage item under MLEP 2001. The two residential buildings which front Denison Street (Buildings C and D) are appropriately modulated to provide architectural interest although the Denison Street frontage is less sensitive as it generally consists of industrial developments of little architectural merit. The applicant seeks to provide a pedestrian link mid-way through the site which provides a visual relief and improves pedestrian access in and around the site. The applicant also seeks to convert the existing High Bay building, which will have frontage to the proposed New Street, into a mixed residential / commercial building. In doing so, it is proposed to disassemble the brickwork on the main southern and northern walls while retaining the main eastern and western gable end in situ.

Whilst the built form is generally considered appropriate, parts of the proposed development fail to satisfy one of the requirements of the Design Code relating to building separation. Under the Design Code, the suggested dimensions for internal courtyards within a development and between adjoining sites for any residential flat building up to 4 storeys or 12 metres in height should be 12 metres between habitable rooms and balconies, 9 metres between habitable and non-habitable rooms and 6 metres between non-habitable rooms.

However, given the narrow width of the proposed New Street the building separation between Building A (which fronts Parramatta Road) and Building B (The High Bay building) is 9.235 metres at its closest point. It is also noted that the building separation between Building B (The High Bay

building) and Building C which fronts Denison Street is 5.1 metres at its closest point while Buildings C and D are separated by 5.4 metres. Whilst not satisfying the suggested dimension for building separation the proposed development is considered reasonable as:

- The building separation between Building A and Building B varies from between 9.235m (at the eastern end of New Street) to approximately 20 metres (at the western end of New Street). As such the majority of the dwellings provided in the subject buildings are provided with an adequate setback;
- The affected dwellings in Building A and Building B do not address each other. The affected dwellings in Building A front Australia Street whilst the affected dwellings in Building B front New Street. Given those dwellings address streets which are perpendicular to each other the reduced building separation is unlikely to result in a reduced level of privacy or residential amenity;
- Similar to the above, affected dwellings in Building B and Building C do not actively address each other. Whilst Buildings B and C have a building separation of 5.1 metres, the affected facades are the rear (southern) façade of Building B and the side (northern) façade of Building C. Those façades do not consist of primary or living room windows and balconies and as such the reduced building separation would not result in an unsatisfactory level of privacy or residential amenity. This is also the case with the building separation between Buildings C and Building D which do not address each other but rather address Denison Street and the central courtyard.

All of the affected dwellings receive adequate levels of privacy and solar access and as such the reduced building separation in the isolated locations of the proposed development is considered acceptable.

Principle 4 – Density

Principle

Good design has a density appropriate for a site and its context in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

The density of the proposed development is considered reasonable given the context of the site. This issue is further addressed under heading 8(iv) below.

Principle 5 - Resource, Energy and Water Efficiency

Principle

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and re-use of water.

The applicant identified that the following principles have been incorporated into the design of the project to maximise sustainability:

- Adaptive re-use of existing structures;
- Selection of durable materials with low embodied energy;
- Use of recycled materials;
- Site planning and building forms that maximise solar access and facilitate natural ventilation;

- Mixed mode and passive ventilation strategies;
- Extensive landscaped areas and deep soil plating with low water use plants (85% of proposed species are native);
- Rainwater harvesting for re-use (toilet flushing, landscape irrigation and car washing); and
- Provision of energy efficient building services, lighting, fittings and appliances.

A BASIX Certificate was submitted with the application which indicates that the proposed development for water, thermal comfort and energy efficiency. A condition should be imposed on any consent granted requiring plans and specifications that fully reflect the selected commitments listed in the BASIX Certificate submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Principle 6 – Landscape

Principle

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by coordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours amenity and provide for practical establishment and long term management.

The applicant made the following submission (in part) having regard to the landscaping provided as part of the proposed development:

"The landscape proposal for the development provides green space with amenity for residents. All landscape areas have a role in the collection and reuse of storm water. All soft landscape areas will be drip irrigated using recycled water that is harvested and stored on site. Materials for use in the landscape have been selected for minimal environmental impact. Timber components will be made from recycled or plantation grown timber. Plant species (85% native refer to plant schedule) will be selected to be hardy, requiring minimal irrigation or chemical sprays once established. To ensure optimum conditions for the proposed planting areas above podium slab, all planting beds will have at least 500mm depth of growing medium. All podium level planters have been designed to be accessible for ongoing maintenance.

.....The central courtyard space has been designed to provide passive use and communal recreational spaces. The landscape layout is strongly graphic for the benefit of overlooking residents. The design has a logical and geometric accessible path network that traverses between the apartments. All building entry points are connected along its length and the central space terminates at an elevated, all access swimming pool.

*The planting palette for the central residential courtyard is designed to provide a robust and low maintenance planting structure, with accent planting to provide varying colours throughout the year. The palette includes a mix of exotic and (predominately) native tree and understorey species. Large turf areas provide functional flexibility. Garden beds are mass planted with low to medium species (refer to plant schedule) that enhances the graphic concept and provides separation between spaces, without compromising passive surveillance. Tall, dense planting (*Bambusa multiplex*) is situated adjacent to the pool ramp providing screening between the elevated deck and the private residential terraces beyond.*

The courtyard includes three large feature trees (Angophora costata) with deep soil root volume below. In an attempt to provide a more intimate scale and to work with the linear nature of the space, a secondary tier of small trees are planted in groves aligning the path network."

The level of landscaping provided as part of the proposed development is considered appropriate given the urban context of the site. The communal open space area provided in the centre of the site is considered to be of an appropriate size and layout to provide for the outdoor recreation needs of residents of the proposed development. The plantings identified in the landscape plan are considered to assist in providing a visually interesting courtyard with high levels of amenity.

Principle 7 – Amenity

Principle

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

The apartments provided in the proposed development exceed the minimum size requirements as set out in the Design Code enabling functional apartment layouts. The majority of apartments will receive solar access in accordance with the requirements contained in the Design Code. Each apartment is provided with an open space area in the form of a balcony or a terrace directly accessible from the primary internal living areas which take advantage of the site's aspect and serve as an extension of the dwelling, providing an external space for relaxation, dining, entertainment, recreation and children's play area. Furthermore, the communal open space area provided is considered to be of an appropriate size and layout to provide for the outdoor recreation needs of residents of the development. The layout and design of the proposed development is also considered reasonable having regard to visual and acoustic privacy.

Principle 8 – Safety and Security

Principle

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

The applicant made the following submission (in part) having regard to the level of safety and security afforded by the proposed development:

"This project will revitalise the immediate area and provide a new level of activity, greatly increasing safety and security in the public domain.

The development's public/private interface has been clearly defined, and there is no ambiguity between publicly accessible, communal and private spaces. Circulation paths are made legible through subtle changes in level, changes in paving materials, the use of awnings, low planters, walls, screens and gates.

The retail spaces to Parramatta Road and the new street will generate daytime activity at ground level. This retail activity has a complimentary relationship with the residential use, resulting in twenty four hour site occupation.

Access to the retail and residential uses is segregated. Retail spaces are located with high visibility on Parramatta Road and at the east end of new street. The Parramatta Road apartments are accessed from the south via new street, maintaining secure access for the residents.

The new street and the through-site pedestrian link will contribute to increased safety in the area. These new links reduce the block size, and connect with existing vehicular, pedestrian and cycle networks. This new activity will provide an added level of surveillance and a civic presence in the public domain. The new street will have twenty-four hour access, and although the land will remain in private ownership, the spaces have been designed with a seamless connection to the rest of the public domain.

The through-site pedestrian link has also been designed to provide safe twenty-four hour access. Casual surveillance is provided from the apartments located adjacent to the link. A well lit and clearly demarcated route is defined through the development."

The retail spaces proposed as part of the development application provide an active facade to Parramatta Road and to a lesser extent Australia Street and the proposed New Street. The layout and design of the residential component of the proposed development ensures casual surveillance over the various street frontages. The building entrances to the residential component of the proposed development are considered to be appropriately located and well defined.

Principle 9 - Social Dimensions

Principle

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for desired future community.

The proposed development is considered reasonable having regard to social dimensions as:

- The density of the development accords with Sydney's need for urban consolidation to improve the environment and reduce private transport usage;
- The proposal incorporates a good range of one and two bedroom units and some three bedroom units. This mix of units can support a range of socio-economic groups; and
- The majority of buildings are serviced by a lift to improve accessibility for a range of people with disability achieved to 100% of the apartments and more than 75% of dwellings are accommodated on a single level.

Principle 10 – Aesthetics:

Principle

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of an area.

The applicant made the following submission having regard to the aesthetics of the buildings in the development scheme:

"Environmental design has been a major determinant of the project's aesthetic development. Solar access, privacy, casual surveillance and acoustic exposure result in different facade treatments, depending on situation.....Aluminium has an anodised finish in a warm colour that brings warmth to the facades, ceramic tiles are used in the facades as a reference to the

Fowler Pottery work, an extension of the interpretive strategy. Each building has an aesthetic that demonstrates a particular response to the site's environmental and historic context.

New buildings use a restrained palette of quality materials, with variations to suit the particular context and issues. Ceramic tiling is used in new buildings to provide a historic connection with the site's former use as the Fowler Pottery Works. Bronze anodised aluminium louvres and screens provide an additional layer and allow the occupants to control solar access and privacy.

Building A faces Parramatta Road, and has the challenge of dealing with acoustics while capturing sun and views towards Annandale. Balconies to this facade have been layered with glass to provide acoustic separation and quality balcony spaces. Building A uses a darker colour palette than the rest of the development in response to its immediate urban situation.

The High Bay building (Building B) and the Australia Street warehouses (Building E) will be adaptively reused. Original face brickwork that has been painted for many years will be restored a test panel has revealed two colour face brickwork in good condition. Where possible, existing openings have been retained and existing doors and windows will be restored. Where new openings are required, they are made with proportions equal to those of the original openings.....The interiors of these buildings will be designed to enhance the historic character of these structures. To the rear of building E, the new facade uses metal cladding and has a form that provides a modern variation on the sawtooth theme.

Buildings C and D front Denison Street, and these facades have been designed to provide privacy and shading from the western sun. West facades face Denison Street and have a higher privacy requirement, and are more closed, with operable screens for the western sun. Casual surveillance is still provided. East facades look into the communal courtyard and are more open. East sun needs screens too. The roof is designed as an attic and uses darker metal cladding to make it self recessive.”

As described by the applicant above, the buildings provided in the proposed development have a varied aesthetic responding to the varied streetscapes which they front. Whilst the buildings have a varied aesthetic all of the dwellings provided in the proposed development are provided with an appropriate level of residential amenity. The layout of the proposed development is such that the new buildings will not unreasonably impact on the curtilage of the historic buildings or facades that are retained as part of the proposed development.

Peer Review

The applicant submitted a peer review of the proposed development, compared to the development previously approved by Council (Determination No. 200400785), which was undertaken by David Chesterman (former director of Jackson Teece Architecture and member of the Randwick / Waverley SEPP 65 Committee, the North Sydney Design Excellence Review Panel and Landcoms Project Review Panel).

The peer review undertaken by David Chesterman states in part:

“I have been requested by the owner of this site (Camperdown Square Developments Pty Limited) to comment upon the design of the proposed development, comparing it with the design already approved by Marrickville Council. In doing this I have used the evaluation topics set up in SEPP 65.

Both of the schemes are of good quality design, however after careful review, I have come to the opinion, as set out below, that the proposal at present before Council is superior to the previous one in a number of, primarily urban design, respects, as well as providing improved amenity for its occupants.

.....The previous and current proposals, which are illustrated, are similar in important respects:

- The number of units proposed are almost the same
- There is a slight reduction in commercial space
- Building heights are the same.

The most critical difference to the previous (approved) proposal is in the disposition of the buildings along Denison Street. This generates a great number of changes in the planning that are discussed below.

.....Reorienting the buildings to be parallel to the Denison Street frontage has the following advantages:

- Denison Street is enlivened by the entrances to blocks C & D and there would be better passive surveillance of it.
- The proponent becomes obliged to improve the environment of Denison Street, as it would be one of the main approaches to the development (instead of the back).
- There are now two clear public pedestrian ways provided across the site. Neither of these intrude upon private and communal open spaces. In my opinion the arrangement now proposed is preferable to the public use of the paths proposed in the approved scheme which passed through what would feel like and in practice be the communal spaces for the residents and which would be likely to result in conflict.
- Due to the typically greater efficiency of a perimeter layout, a greater single area of landscaping is achieved. The open space that would be provided is of a generous scale.
- Although there would be fewer north facing apartments the scheme has good solar access to the apartments and much improved solar access to the communal open space on the site.
- The residents would enjoy substantially better outlooks.
- It becomes possible to retain a greater depth of the historic buildings on Australia Street, allowing a superior internal layout on two instead of three floors.
- The form of the buildings on the Denison Street frontage will not be visible from Australia Street, above the run of 1920's historic facades that are to be preserved.
- The garage layout is clearer and would in my opinion be safer as there would be less potentially concealed areas.

I believe that the design of the Denison Street facades would be improved if the entrances were more strongly articulated.

The addition of another lift core and changed internal planning in the proposal now before Council has eliminated "crossover" apartments from the design. It is my opinion, on the basis of comments that I have had from the developers of small units that this form of apartment is not popular as it is inconvenient, and that therefore this would be an improvement. On the other hand there would be a greater number of single aspect apartments. I understand that the proportion of such units would increase from 18% to 38% of the total number. This proportion however remains within the "rule of thumb" standard in the Residential Flat Code and the units are not excessively deep.

The Parramatta Road facade is more strongly articulated in the scheme now before Council and for this reason I believe relates more comfortably to the typically relatively narrow articulation of nearby buildings as well as improving acoustic conditions within the building.

.....The landscaped open area proposed in the scheme now before Council is slightly larger and considerably more generous in feeling than the previous scheme and would be enjoyed by all the occupants of the development. On the other hand it could be said that there would be less greenery to be seen from Denison Street. However it is my view that this would be

offset by the greater clarity of the through site pathway, additional street trees and the greater safety afforded by the entrances and windows that would address the street.

On balance, I am therefore of the view that the new proposal would result in a better and safer outcome on Denison Street.

.....It is my opinion that the good solar access provided, the wider views available and the more convenient single level apartment layouts in the present proposal would result in better amenity for its users. The current proposal would also improve privacy, as apartments would not be looking into one another to nearly the same extent.

.....It is my view that the placement of multiple entrances on Denison Street (and more windows overlooking it) and the directness and clarity of the through site links now proposed, which would be used as they lead to an open space and recreation facilities, would result in a safer better informally supervised environment.

It is my opinion that the proposal at present before Council has a number of aesthetic characteristics that give it an edge over its predecessor, in particular:

- The scale and clarity of the central open space.*
- The greater articulation of the Parramatta Road façade.*
- The southern facade treatment of the high bay building B.*

I believe that greater articulation of the facades along Denison Street would improve them.

.....For the reasons set out above, that largely support the analyses presented by Bates Smart, it is my opinion that the proposal now before Council is superior to the approved scheme."

It is evident from the above that David Chesterman is of the opinion that the development proposed as part of the subject development application is superior to the development scheme that was approved under Determination No. 200400785. It is noted that David Chesterman raised some concern with the lack of articulation in the facades of the buildings which front Denison Street. This issue was raised with the applicant during the assessment of the application and the applicant submitted amended plans which provided greater articulation in the facades of those buildings. The increased articulation and modulation provided as part of the amended development is considered to result in an improved architectural appearance which will add positively to the streetscape of Denison Street.

Given the above, the proposed development is considered reasonable having regard to the principals and controls contained in SEPP 65 and the Design Code.

8. Marrickville Local Environmental Plan 2001

(i) Zoning (Clause 12 and 13)

The subject property is partly zoned General Business and partly zoned Residential 'C' under Amendment No. 33 of Marrickville Local Environmental Plan 2001 (MLEP 2001).

Under MLEP 2001 'shops' and 'dwellings' (attached to a permissible use) are permissible with consent in the General Business zone, whilst 'residential flat buildings' are permissible with consent in the Residential 'C' zone.

As such, the proposed development is permissible with consent under the zoning provisions applying to the land. The proposed development is considered to satisfy the objectives for the relevant zones under Marrickville Local Environmental Plan 2001.

(ii) Aircraft Noise (Clause 28)

The subject property is located within the 20-25 Australian Noise Exposure Forecast (2029) Contour. The proposed dwellings would need to be noise attenuated in accordance with Australian Standard AS2021-2000 - Acoustics - Aircraft noise intrusion-Building Siting and Construction. A condition to such effect should be imposed on any consent granted.

(iii) Flood Prone Land (Clause 29)

The property is located in an area identified as flood prone land on Council's "Approximate 100 Year (1% AEP) Flood Extent" Map. The applicant submitted a Civil and Hydraulic Design Report, Stormwater and Flooding Report and Assessment of OSD for Proposed Development, prepared by Hughes Trueman as part of the subject development application. Council's Development Control Engineer has reviewed the proposed development and raised no objection having regard to flooding.

(iv) Floor Space Ratio (Clause 45)

Amendment No. 33 of MLEP 2001 provides specific floor space ratio (FSR) controls for the subject site. The table below demonstrates compliance with the maximum floor space ratio controls as prescribed under amendment 33 of MLEP 2001:

MLEP 2001 (Amendment 33)	Permitted	Proposed	Compliance
Floor Space Ratio for land zoned General Business (max.)	2.29:1	2.29:1	Yes
Floor Space Ratio for land zoned Residential 'C' (max.)	1.66:1	1.66:1	Yes

(v) Height (Clause 45)

Amendment No. 33 of MLEP 2001 provides specific height controls for the subject site. The table below demonstrates compliance with the maximum height controls as prescribed under amendment 33 of MLEP 2001:

MLEP 2001 (Amendment 33)	Permitted	Proposed	Compliance
Height for land zoned General Business (max.)	RL 36.8	RL 36.5	Yes
Height for land zoned Residential 'C'	RL 32.45	RL 31.75	Yes

(vi) Heritage (Clauses 47 to 55)

The subject property is the site of the former Fowlers Potters. The site:

- Is a listed heritage item under MLEP 2001 (Item 2.29) which identifies the Australia Street industrial façade as being heritage significant;
- Lies within the Camperdown Conservation Area (ResCA6) under Draft MLEP No. 111;
- Is opposite Camperdown Park, which is a listed heritage item under MLEP 2001 (Item 2.26);
- Is opposite 10-14 Australia Street, known as the Cranbrook Group, which is a State Heritage Register item and associated with the former Fowlers Pottery;
- Has been identified as a potential archaeological site in relation to the former Fowlers Pottery.

Given the heritage significance of the site and the surrounding area, the subject development application was referred to Council's (former) Heritage and Urban Design Advisor for comment.

Council's Heritage and Urban Design Advisor has reviewed the development scheme and provided the following comments:

- “• A fundamental consideration of the proposal is that the entire site is listed as a significant heritage item with archaeological significance and hence, demolition of any of the building fabric on the site is undesirable. The intention to demolish the “high bay building” fronting Parramatta Road, as well as aspects of the triangular pedimented building fronting Australia Street and the building fronting Denison Street is not an appropriate proposal for a heritage item.*
- The site has been identified as archaeologically significant for its former use as the Fowler's Pottery works and the proposal involves substantial excavation of the site, which will not only undermine the existing built fabric but may have the potential to cause considerable disturbance to any relics and archeological remains. The applicant should ensure that requirements for an archaeological watching brief as part of the heritage impact statement are adhered to for the appropriate management of the archaeological significance of the site.*
- When compared to the previously approved development, the proposal considers an expansion of the physical curtilage of the triangular pedimented building fronting Australia Street, however still results in demolition of the same degree of this building. This was considered as acceptable, on balance, as part of the previous proposal for the overall site, but in this instance demolition is not a desirable aspect of the proposal from a heritage perspective.*
- The relationship of the proposed building to those adjoining when viewed within the context of Denison Street needs to be given consideration. Further details of how the building is resolved at the respective northern and southern is required to ensure there is an appropriate transition between the existing and proposed building form and fabric along Denison Street.*
- One of the key considerations of the development is the integration of a contemporary, mixed used complex within an historic, industrial precinct. The proposal is promoted as a contemporary urban development, which promotes activation of an area of low pedestrian activity, however permeation through the site is limited by the existing design. The proposal involves a single principal point of entry from Denison Street, which is proportionately narrow when taking into account the length and alignment of the proposed façade, and is exacerbated by the overwhelming overhang structure around this entry. It is arguable that this promotes an appropriate level of street activation or that this entry is considered to be inviting when placed within an industrial context, which is already physically dominating by nature. Ideally, the principal entry should be distinguished through a change in either scale, materials or form or modulation of the building away from the Denison Street frontage. Alternatively, a series of entries to the site proposed along Denison Street would encourage activation along the street, and between the street and the site, and will also assist in breaking up the continuity and visual dominance of the western facade.*
- The experience of the central courtyard has become a key point of resolution for the proposed design and at present it represents a large and potentially intimidating space, dominated by the proposed development fronting Denison Street and Parramatta Roads. The passage of transition between Denison and Australia Streets will be informed by the treatment of the remainder of the curtilage of the heritage item and the relationship of the built elements in terms of form and materials as experienced by the pedestrian. Compartmentalisation of this space, potentially as a response to a series of entries to the site from Denison Street, may be an alternative to ensure that the residential development reflects a scale that is conducive to pedestrian interaction.*

Conclusion

The subject proposal is not principally supported on heritage grounds, as it involves substantial excavation and demolition of a significant heritage item as well as the proposition of development that does not appropriately respond to the existing industrial heritage context. The applicant is urged to consider less excavation, greater retention of building fabric and a more sensitive resolution between the proposed and adjoining buildings along Denison Street and ensure that the development promotes appropriate street activation and a scale that is conducive to pedestrian interaction."

It is evident from the above that Council's (former) Heritage and Urban Design Advisor does not support the proposed development. Particular concern is raised with the proposed demolition and reconstruction of the High Bay Building; the poor relationship between the proposed development and the adjoining heritage item on Denison Street; the narrowness of the through site link (when compared to length of frontage) and the general lack of permeability through the site from Denison Street; and the overall continuity and visual dominance of the two (2) buildings proposed on the Denison Street frontage.

The applicant made the following submission (in part) comparing the proposed development scheme to the development scheme approved under Determination No. 200400785:

"The following highlights the main differences between the approved and proposed revised schemes with regard to the existing buildings:

Australia Street façade

- The revised scheme will retain the Australia Street facade as does the original scheme, but with the further benefit of returning the walling to its original face brick finish by stripping the later paintwork. Tests have already been carried out and confirm that the paint can be stripped without damaging the bricks.*
- The revised scheme will delete the square windows above the stringcourse which were proposed on the approved scheme as well as retain a greater length of the saw tooth roof structure (16 metres as opposed to about 10.5 metres).*
- The revised scheme does propose to adapt more of the existing double hung windows as door entries to the units. A majority of the units along Australia Street in the approved scheme were entered from the rear or courtyard side, and it is considered that the revised scheme, by locating the doors on the street side engages more with the street and is a better design solution.*
- On the high bay gable end, the revised scheme, while adapting for reuse, retains more of the original brickwork than does the approved design.*

The High Bay Building

- The approved scheme proposed to adapt the high bay building for residential and commercial uses. The drawings indicate that on the long north wall the existing brick walling between the thicker engaged piers was to be removed with some of the brick retained as a spandrel at the third floor level. On the south elevation the brickwork was to be similarly removed but only in the western two thirds of the wall. It was also proposed to tunnel beneath the high bay building to provide a connect between the northern and southern underground car parks. As outlined in the report, Structural Assessment of Adaptive Re-use Proposals by Hughes Trueman, it is considered that there are issues of complexity and risk associated with this scheme. These involve the need to underpin at least twelve metres of the north wall and to needle and pier twelve metres of the south wall. There is also the problem of retaining and supporting the brick walling as spandrels above the crane monorails (the brick piers terminate at the rail and at this level the wall is 230mm thick) as well as the fact that the main roof trusses are not all supported on the line of the brick piers which means the roof trusses would need to be removed during construction.*

- *The revised scheme also proposes to adapt the high bay building for residential and commercial uses. To provide a more efficient car park the revised scheme proposes parking below the high bay building and the construction of a separate car park under the commercial building on Parramatta Road, instead of tunnelling through and connecting the two car parks, as in the approved scheme. It is intended to construct the car park by retaining the east and west walls and dismantling and rebuilding the north and south walls. The structural report by Hughes Trueman sets out the various structural options clearly and their respective structural and cost implications. With regard to reassembling the brick walls, the existing brickwork mortar has been tested and consists of lime mortar, which will ensure the bricks are not damaged during the disassembling process.*

As stated in the structural report the option of constructing a car park under the building while keeping the building in-situ above is an extremely time consuming and expensive exercise. It is considered that the north and south brick walls of the high bay building have not been demonstrated to be of high enough significance to justify this cost."

Despite the concerns raised by Council's (former) Heritage and Urban Design Advisor, the proposed development is considered reasonable for the following reasons:

- As part of the proposed development the applicant proposes to remove the existing paintwork from the retained buildings returning the facades to their original face brick finish;
- It is evident that the structural reports submitted with the development application that the retention of and alterations to the High Bay building, whilst tunnelling beneath the building to facilitate vehicular access to the car parking provided on the portion of the site zoned Residential 'C', would be problematic and would require the removal of a significant portion of the existing building fabric;
- The proposed development removes the windows provided above the stringcourse of the Australia Street façade that were to be created as part of the approved development scheme;
- The proposed development retains a greater length of the saw tooth roof structure (16 metres as opposed to about 10.5 metres) than that of the approved development scheme;
- By reorienting the buildings to be parallel to the Denison Street frontage they are no longer prominently visible above the existing brick industrial façade in Australia Street; and
- During the assessment process, the applicant amended the façade treatment of the buildings which front Denison Street. The amended facades have a greater level of articulation and the corners of the building have been treated with a re-entrant detail which assists in softening the transition between the new and existing buildings.

In accordance with the recommendations contained in the Heritage Impact Statement submitted with development application it is considered that conditions requiring a Conservation Management Strategy and an Interpretation Strategy should be imposed on any consent granted.

(vii) Acid Sulfate Soils (Clause 57)

The property is not located within an area identified as being subject to acid sulfate soil risk under MLEP 2001.

(viii) Waste Management (Clause 58)

Clause 58 of MLEP 2001 requires consideration of waste management for any proposed development. There is considered to be sufficient area within the site to allow for the storage of garbage bins in accordance with the requirements prescribed under Marrickville Development Control Plan No. 27 – Waste Management. A condition requiring a Site Waste Management Plan prepared in accordance with Council's requirements to be submitted to and approved by Council should be imposed on any consent granted.

(ix) Energy, Water & Stormwater Efficiency (Clause 59)

Clause 59 of MLEP 2001 requires consideration to be given to the energy, water and stormwater efficiency of any proposed development. The applicant submitted an ESD, Mechanical and Electrical Report, prepared by Ove Arup & Partners Ltd as part of the development application. The report provides a summary of all the initiatives considered to reduce environmental impacts caused by the design, construction and operation of the proposed development aiming at high levels of environmental performance. The applicant identifies the following environmental benefits of the proposed development:

- “• *the provision of open space with a much greater year round amenity;*
- *underground rainwater tanks to be used for toilet flushing and landscaping;*
- *on-site stormwater detention to be provided for Building A which drains to Parramatta Road (to reduce flooding in Parramatta Road);*
- *BASIX features (rainwater tanks pumped to toilet and garden, efficient showerheads, toilets, taps and tap fittings, the use of indigenous garden species, external shading devices, performance glazing, energy efficient lighting, cross ventilation, good solar orientation, improved insulation etc).”*

The layout and design of the proposed development is considered to provide for appropriate levels of natural ventilation. A BASIX Certificate was submitted with the application which indicates that the proposed development achieves appropriate scores for water, thermal comfort and energy efficiency. A condition should be imposed on any consent granted requiring the provision of energy efficient fixtures in accordance with Council's requirements.

(x) Community Safety (Clause 62)

Clause 62 of MLEP 2001 requires consideration to be given to community safety before granting development consent. To this extent the following matters are to be considered:

- (a) *the provision of active street frontages where appropriate,*
- (b) *the provision of lighting for pedestrian site access between public and shared area, parking areas and building entrances,*
- (c) *the visibility and legibility of building entrances from streets, public areas or internal driveways.*

The retail spaces provided as part of the proposed development provide an active facade to Parramatta Road and to a lesser extent Australia Street and New Street. The layout and design of the residential component of the proposed development ensures casual surveillance over the numerous street frontages. The building entrances to the residential component of the proposed development are considered to be appropriately located and well defined. As such, the proposed development is considered to satisfy the community safety provisions contained in MLEP 2001.

(xi) Accessibility (Clause 64)

Clause 64 (2) requires at least 10% of the total number of dwellings in a multi unit housing and residential flat developments containing 10 or more dwellings to be designed in accordance with Australian Standard AS 4299 – Adaptable Housing. As the proposed development contains 188 dwellings, a minimum of 19 of the dwellings must be adaptable dwellings design in accordance with AS 4299 – Adaptable Housing. The proposed development satisfies Council requirements in terms of accessibility and the provision of adaptable housing. Refer to discussion under heading 12 below.

9. Development Control Plan Assessment

In assessing the subject development scheme against the relevant development control plans it is useful to consider the site in two parts, with Site A referring to buildings A and B (being that portion

of the site proposed to be zoned General Business) and Site B referring to buildings C, D, and E (being that portion of the site proposed to be zoned Residential 'C').

Site A (General Business Block) - Marrickville Development Control Plan No. 28 – Urban Design Guidelines for Business Centres (DCP 28)

As described above, the front portion of the site is zoned General Business, and the subject development application seeks to develop this portion of the site with two buildings (one of which is the refurbishment/reconstruction of the existing High Bay building) separated by a new road.

Building A which fronts Parramatta Road, is to contain ground floor retail/commercial showroom with between four (4) and five (5) floors of residential development above and Building B provides a mix of residential and commercial development.

The development proposed for Block A is subject to the objectives and development controls contained in Marrickville Development Control Plan No. 28 – Urban Design Guidelines for Business Centres (DCP 28), namely:

(i) Building Massing

DCP 28 outlines the following objectives in relation to building massing:

“O1 To preserve the prevailing pattern of buildings, built to the front boundary and massed to their full height at the street frontage & stepping down at the rear.

O2 To reinforce the local topography of Marrickville’s business centre as ridge roads, visible at their highest points to adjacent uses and neighbourhoods.”

The massing of the development on that portion of the site zoned General Business has been somewhat constrained by the retention of the High Bay building and the Australia Street façades. Despite the retention of these structures, the application ensures that the massing of the new building respects the site’s context and the requirements prescribed under DCP 28. As indicated in the assessment above, the proposed development satisfies the site specific height control prescribed under MLEP 2001 (Amendment No. 33). Furthermore, the provision of New Street which separates Building A from the High Bay Building ensures safe and convenient vehicular access into the site whilst also allowing the northern façade of the High Bay building to have a street address improving the amenity of the commercial suites and residential apartments provided in this building.

The massing of the development is considered appropriate given the context of the site.

(ii) Building Height

DCP 28 outlines the following controls in relation to building height:

“C1 Height of buildings at the street boundary is determined by the prevailing wall height adjacent and any neighbouring contributory buildings.

C2 Vertical (upper floor) additions to buildings may be permitted:

- If they are not visible from the ‘shopping street’ and the streets running off them.....*
- Where they help to improve the building’s contribution to the setting.....*
- Where buildings display a uniform height at the street alignment, new development shall maintain a complimentary height relationship with adjoining development.*

- C3 The height of corner buildings may be higher than the height limit determined by neighbouring buildings, to a maximum, to a maximum distance of 5 metres from both sides of the street corner, in order to reinforce the street corner.*
- C4 At the street frontage, only minor features such as parapets can project above the building height limit, and only to a maximum of 50% of the parapet width.*
- C5 Buildings are to step down at the rear, to a maximum external wall height of 7.5 metres, to be compatible with the scale of the adjacent residential areas and in keeping with the built form pattern of retail streets.*
- C6 Building height on rear lanes etc is limited to a maximum of 7.5 metres to the top of the wall."*

Under DCP 28 the *"height of buildings at the front street boundary is determined by the prevalent wall height of adjacent and any neighbouring contributory buildings"*. The subject site is located in a section of Parramatta Road which does not have a prevalent wall height, but rather is made up of an eclectic mix of buildings of varying heights and architectural style. The buildings in the surrounding area range from one storey (being the dwelling houses fronting Parramatta Road to the west of the subject site) to six storeys (Franks Building and Strathfield Car Radio's Building).

The height of Building A is considered reasonable for the following reasons:

- The building satisfies the site specific height control prescribed under MLEP 2001 (Amendment No. 33);
- The building occupies the entire block between Australia Street and Denison Street and is generally surrounded by buildings with minimal opportunities to be overlooked or overshadowed;
- The precinct in which the subject site is located is characterised by a range of buildings, including two buildings of similar height to that proposed (the 'Franks' Building and the Strathfield Car Radio Building);
- Council has recently considered a Crown development application which seeks to erect a building which is predominantly six storeys in height on the adjoining property to the west known as 163-185 Parramatta Road. Whilst Council requested the Minister for Planning to concur with the Council's recommendation to refuse the application, the Minister for Planning has advised that she does not agree with Council's proposed refusal of the application and in accordance with the provisions of Section 116E(4)(c) of the EP&A Act, requested that Council provide the Department of Planning with draft conditions. Council provided draft conditions on 16 October 2009, however to date no consent has been issued;
- The proposed development does not result in any significant impacts (i.e. loss of privacy, overshadowing) on surrounding properties; and
- The proposed development is considered to be of an appropriate height, bulk and scale given the strategic visions for Parramatta Road.

DCP 28 also prescribes that *"buildings are to step down at the rear, to a maximum external wall height of 7.5 metres, to be compatible with the scale and character of the adjacent residential areas and in keeping with the built form pattern of retail areas"*.

In this instance, the rear of site zoned General Business is dictated by the southern wall of the High Bay building. The southern wall of the High Bay building has a maximum height of 9.5 metres, thereby exceeding the maximum height of 7.5 metres prescribed under DCP 28.

The proposed variation to the maximum height at the rear of site is considered acceptable, as:

- The High Bay building is an existing building, and its retention is warranted on heritage grounds; and

- The height of the High Bay building compares favourably to that of the buildings located to the rear, being residential flat buildings five (5) storeys in height.

Given the above, the height of the proposed development is considered satisfactory.

(iii) Setbacks

“C1 New development shall be built to the predominant setback, generally to front alignment.”

Building A is setback approximately 2 metres at ground level and 1.2 metres on the residential levels above from the front property boundary. The setback aims to improve pedestrian amenity by providing a wider footpath and at the same time improve residential amenity for the dwellings provided in the building. This minimal setback is considered to be an appropriate response to the street and the building maintains a hard urban edge that defines the corner which is encouraged under DCP 28.

(iv) Corners

DCP 28 outlines the following objectives with respect to corners:

- “O1 To maintain the distinctive ways corner buildings address their location.*
- O2 To maintain corners as visually significant elements in order to preserve and promote the character of the business centre.*
- O3 To encourage new corner development which responds to the visually interesting corner buildings found in Marrickville’s business centres.”*

The design of Building A is of a high architectural merit and addresses its corner location (see image 13 below). The proposed development defines the corners and allows the streetscapes of both streets to merge, which is an urban design principle encouraged under DCP 28. The design and massing of the proposed development provides for additional height on the corner of Australia Street and Parramatta Road, which is also encouraged under DCP 28.



Image 13 – Photomontage of development highlight the appearance of the development on the corner of Australia Street and Parramatta Road

(v) Building Façade

DCP 28 outlines the following objectives in relation to building façade:

- "O1 To reinforce the prevailing pattern, characterised by simple, rectilinear building forms, full height at street frontage, and variation in roof parapet, chimney roof eaves, details and other features.*
- O2 To encourage new development characterised by predominantly vertical proportion of bays, openings and windows.*
- O3 To ensure that openings and windows are sympathetic with the overall proportion of the building and its division into bays.*
- O4 To maintain and promote the vertical emphasis of the narrow 2-3 storey built forms that balance the horizontal nature of the shopping street corridor."*

The proposed development is considered to be generally characterised by a predominantly vertical proportion of bays, openings and windows. Vertical articulation on the front façade of Building A modulates the façade which responds and makes reference to the subdivision pattern and building form of commercial buildings which front Parramatta Road in the vicinity of the site. It is considered that the detailing and finishes proposed for Building A would result in a building of a high architectural quality which would add positively to the streetscape of Parramatta Road. The façade treatment of Building A is considered to respond to the existing streetscape and the controls contained in DCP 28.

Given the above, the façade treatments of the proposed building are generally supported.

(vi) Materials and Finishes

DCP 28 outlines the following objectives with respect to materials and finishes:

- "O1 New building materials are to be in keeping with the traditional nature of building materials found within the business centre and reinforce the traditional solid walls to openings pattern.*
- O2 To ensure that the selection of feature colours for relief elements does not detract from, but rather reinforces building proportions and façade articulation.*
- O3 To encourage colour schemes that are in character with the existing shopping centre and surrounding building styles."*

The applicant provided a Schedule of Materials and Finishes as part of the subject development application. The materials and finishes proposed for Building A respond to the urban environment which exists on Parramatta Road and are satisfy the objectives contained in DCP 28.

(vii) Internal Layout – Solar Access, Ventilation, Energy and Water Efficiency

DCP 28 outlines the following relevant controls in relation to solar access and ventilation:

- "C1 At least 65% of new dwellings within a development should provide living area windows positioned within 30 degrees east and 20 degrees west of true north to allow for direct sunlight for at least 2 hours between 9.00am and 3.00pm on 21 June.*
- C2 Direct sunlight to the windows of principal living areas and the principal area of open space, of adjacent dwellings must not be reduced:*
 - 1. to less than 2 hours between 9.00am and 3.00pm on 21 June; and*

2. *where less than 2 hours of sunlight is currently available in June, the sunlight available in March/Sept will be considered in the assessment of the proposal. That sunlight available between 9.00am and 3.00pm on the 21 March/September is not to be reduced.*
- C3 *The maximum depth of a habitable room from a window providing light and air to that room shall be 10 metres including any overhanging part of the building, balconies, terraces etc.*
- C4 *On west facing facades subject to direct sunlight, external shading or other energy saving measures should be integrated into the design of the new building.*
- C5 *Each new dwellings within a development must:*
- *comply with a minimum 3.5 star NatHERS energy rating of internal comfort for each new dwelling.*
- C7 *Building design ensures that dwellings within a development enjoy natural rather than mechanical ventilation by:*
- *Siting and layout design that captures breezes;*
 - *Use of narrow floor plans;*
 - *The arrangement of windows, doorway and other openings that allow the free internal movement of air; and*
 - *Avoiding double loaded corridor configurations.”*

The layout and design of the proposed development on Site A is considered to provide for appropriate levels of solar access and natural ventilation. The proposed development is considered reasonable having regard to the principles of passive solar design with the living areas and balconies of the majority of the dwellings provided in the Building A having a northern aspect. Whilst the building contains some south facing apartments, those apartments front the proposed New Street and are afforded the improved amenity of being shielded from Parramatta Road. Site constraints also impose some overshadowing of Building A towards Building B, such that units located in the middle of the High Bay building will receive little solar access in mid winter. Whilst not ideal, the affected dwellings have a dual aspect and will still be afforded reasonable levels of residential amenity.

The applicant submitted shadow diagrams with the subject development application which illustrate the shadow impact that the proposed development will have on surrounding properties. Given the aspect of the site and the fact that the site is largely surrounded by non-sensitive land uses the only residential building that adjoins the site that will be shadowed by the proposed development between 9.00am and 3.00pm on June 21 is the Franks Building located in the Union Square development which is located to the west of the subject site on the opposite side of Denison Street.

The applicant made the following submission in considering the shadow impact that the proposed development will have on the Franks Building when compared to the development approved under Determination No. 200400785:

“The shadow diagrams illustrate that at 9.00am there is a minor increase in overshadowing of the eastern facade of the Franks Building and Kilner Lane. The area of the eastern facade that is overshadowed by the proposed development does not contain any openings. At this time there is no increase in overshadowing to north facing windows of apartments on Level 3 of the Franks Building. At 10.00am there is a negligible increase in overshadowing to one of two north facing windows of the corner apartment Level 2 of the Franks Building, however the degree does not result in the amenity of this apartment in any way being diminished. By 11.00am on June 21, the Franks Building is not overshadowed at all by the proposed development. As demonstrated, the proposed development in mid winter, the worst time of year, does not result in any material overshadowing of the Franks Building.”

As described by the applicant above, the proposed development would not result in any material increase in the level of overshadowing of the Franks Building than the development approved under Determination No. 200400785. Furthermore, the level of overshadowing that the proposed development will have on the Franks Building during the winter solstice is minimal and considered acceptable.

As such the proposed development is considered reasonable having regard to solar access and ventilation, resulting in dwellings with appropriate levels of amenity.

(viii) Visual and Acoustic Privacy

DCP 28 outlines the following objective in relation to visual and acoustic privacy:

“O1 New development is to ensure adequate visual and acoustic privacy levels for neighbours and residents.”

The proposed development is considered to provide satisfactory levels of visual and acoustic privacy for residents and neighbours alike. To this extent it is noted that the layout of the proposed development ensures that direct viewing into living areas of adjoining dwellings has been minimised with the majority of dwellings facing Parramatta Road and New Street.

Given the above, the proposed development is considered reasonable having regard to visual and acoustic privacy.

(ix) Open Space and Landscaping

DCP 28 outlines the following controls in relation to the provision of open space:

“C1 Open space areas are of a size and slope to suit the projected requirements of the dwelling’s occupants

C2 Part of the open space is capable as serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and is accessible from the main living area of the dwelling.

C3 Private open space is located to take advantage of:

- outlook and any natural features of the site; and*
- to reduce adverse impacts on neighbouring dwellings such as privacy and overshadowing.*

C4 Orientate open space areas wherever possible to the north for maximum solar access.

C5 Private open space for each dwelling is to be provided in the form of a balcony, or terrace with:

- convenient access from the main living area of the dwelling;*
- a minimum area of 8sqm; and*
- a minimum width of 2m.*

C6 Landscaping is designed to meet user requirements, taking into account maintenance, exercise opportunities, shade provision and aesthetic quality.

C7 Site landscaping considers community safety guidelines including:

- ensuring good visibility and lighting at dwelling entries and along paths and driveways;*
- avoiding shrubby landscaping near thoroughfares; and*

- *providing suitable paving to driveways and walkways in the vicinity of garbage bin enclosures, letter boxes and clothes lines, children's playground equipment, seating and shade structures.*
- C8 *All applications for shop top housing development (or as advised by Council Officers) shall be accompanied by a concept landscaping plan that indicates the location and species of trees, shrubs and ground cover in a way that:*
- *uses vegetation types and landscaping styles that integrate the development with the adjoining locality;*
 - *is of an appropriate scale relative to both the street width and the building bulk;*
 - *contributes to energy efficiency and amenity by providing substantial shade in summer especially to west-facing windows and open car park areas, and admitting winter sunlight to outdoor and indoor living areas, access to ventilating breezes and protection from strong winds;*
 - *minimises risk of damage to proposed buildings, overhead and underground power lines and other services;*
 - *minimises stormwater run-off by the use of soft landscaping and permeable paving systems;*
 - *use landscaping to minimise water consumption and waste;*
 - *retain and incorporate existing trees on site into new landscaping schemes; and*
 - *minimise overlooking and protect privacy.*
- C9 *Where landscaping over the roof of underground parking areas is proposed, it shall support soil of sufficient depth, contain appropriate irrigation devices, drainage connected to stormwater, that support the growth of medium sized plants species (up to 2.0m in height) with details shown on the concept landscaping plan.*
- C10 *For major development projects within business centres, Council, may require the provision of mature street trees along the public street including protection grilles and guards in accordance with the Marrickville Street Tree Master Plan or as advised by Council's landscape architect.*
- C11 *Planting provided along balconies in the form of planter boxes, to reduce overlooking of adjoining premises will only be acceptable to Council where it can be demonstrated that the longevity of the screen planting will be assured. In this regard details of any such planting are to be shown on the concept landscaping plan and include soil depth, soil mix content, preferred plant species and details of proposed automatic irrigation system required to be installed."*

The private open space provided for the dwellings in the proposed development complies with the above-mentioned requirements in that:

- The areas of the private open space (balcony) provided are all in excess of 8 square metres, with depths in excess of 2 metres;
- All private open spaces have convenient access to the living areas of the respective dwellings and as such are capable of serving as an extension of the dwelling for relaxation, dining, entertainment and recreation purposes; and
- The majority of the areas of private open space take advantage of the northern aspect, and as such will receive reasonable levels of solar access.

Site B – Residential Development at rear of site - Marrickville Development Control Plan No. 35 – Urban Housing (Vol. 2) (DCP 35)

Site B refers to that part of the site to be rezoned Residential 'C' and developed with three distinct buildings being Buildings C, D and E.

Buildings C and D are new buildings which front Denison Road whilst Building E, which fronts Australia Street, consists of twenty six (26) attached dwellings which are set behind and actively re-use the existing industrial façade which is listed as a heritage item under MLEP 2001.

(i) Solar Access, Ventilation, Energy and Water Efficiency

DCP 35 requires that:

“At least 65% of new dwellings on site shall provide living area windows positioned within 30 degrees east and 20 degrees north to allow for direct sunlight for at least 2 hours between 9.00am and 3.00pm on 21 June.”

DCP 35 also requires that:

“Direct solar access to windows of principal living areas and the principal area of open space of adjacent dwellings, must not be reduced:

- (a) to less than 2 hours between 9.00am and 3.00pm on 21 June; and*
- (b) where less than 2 hours of sunlight is currently available in March/Sept will be considered in the assessment of the proposal. The sunlight available between 9.00am and 3.00pm on the 21 March/September is not to be reduced.”*

The applicant made the following submission in relation to solar access:

“New buildings have been orientated to maximise solar access. The north south orientation of Building C and Building D recognises the need for sun to Building E and to the landscaped communal courtyards. . It is expected that 82% of primary living spaces will receive more than three hours of direct sunlight in mid winter, and 93% will receive more than two hours. Also, communal courtyards will receive full sun during the middle of the day in mid winter. A large number of apartments are dual aspect, comprising 61% of the total. Operable louvre screens, combined with fixed shading and balcony overhangs, provide a high degree of control over solar access.”

As described by the applicant above, the layout and design of the proposed development ensures that the majority of dwellings will receive high levels of solar access throughout the year. The north south orientation of the buildings provided on that portion of the site zoned Residential ‘C’ coupled with the building separation afforded by the central courtyard ensures that the buildings do not shadow each other. The central courtyard will also receive high levels of solar access throughout the year, with solar access maintained in mid winter for a significant portion of the day.

The applicant submitted shadow diagrams with the subject development application which illustrate the shadow impact that the proposed development would have on surrounding properties. Given the aspect of the site and the fact that the site is largely surrounded by non-sensitive land uses the buildings proposed on that portion of the site zoned Residential ‘C’ will not result in any overshadowing of any residential properties that surround the site.

As such, the development on that portion of the site zoned Residential ‘C’ is considered reasonable having regard to solar access and overshadowing.

(ii) Site Coverage

DCP 35 prescribes a maximum site coverage control illustrated in the table below:

DCP 35 (Vol.2)	Permitted (max)	Proposed	Compliance
<i>Site Coverage (max.)</i>	30% of site area	52% of site area	No

As indicated above the proposed development fails to satisfy the maximum site coverage control prescribed under DCP 35. The applicant made the following submission in support of the proposed variation:

“The proposed development has a site cover of approximately 52% on that part of the site zoned Residential 2(C). The stated objective of the control is to allow adequate provision to be made on a site for infiltration of stormwater, deep soil planting, landscaping, footpaths, driveways and for outdoor recreation areas. The proposed development is consistent with the objective of the site coverage control in that:

- The proposal provides generous areas of landscaped open space, capable of accommodating mature trees, a new publicly accessible street and through-site link. Existing buildings cover close to 90% of the site, with the only open area being the car sales yard at the Parramatta Road frontage. The site is devoid of any landscaping with the exception of one medium size tree and a 2sqm area of lawn within the northern portion of the site. The proposed development will open up what is currently a totally closed site. It will provide approximately 2,790sqm of landscaped open space and a further 1,285sqm as a new publicly accessible street and through-site link. It also proposes to introduce street trees along Australia Street and Denison Street.*
- The opportunity to provide additional deep soil planting and landscaped open space is limited due to the proposed adaptive re-use of the High Bay building and its retention of its Australia and Denison Street facades and proposed retention of the existing Australia Street heritage facade, the retention of which from a planning and heritage point of view, clearly outweighs the proposed variation to the site coverage control. This situation is acknowledged in Council's DCP which does not specify a site coverage control for warehouse/industrial conversions, given that in most cases this form of development entails working within an existing building envelope.*
- The proposed development includes on-site detention storage for run-off from Building A, a structural stormwater treatment measure to contribute to stormwater management for dense urban sites where there is limited potential for deep soil zones. The proposal also includes two rainwater tanks at basement level and beneath landscaped areas. The rainwater is proposed to be used in part for landscape irrigation.*

The proposed development's resultant site coverage is considered appropriate.”

The points raised by the applicant are considered to have merit. The proposed development generally conforms to the building envelope controls satisfying the FSR and height controls prescribed under MLEP 2001 (Amendment No. 33). The ability to satisfy the site coverage control contained in DCP 35 is hampered by the form of development encouraged on the subject site under MLEP 2001 (Amendment No. 33) which allows a FSR (1.66:1 max.) that is significantly higher than what is typically permitted under MLEP 2001 (1:1 max.).

Whilst not technically satisfying the site coverage control contained in DCP 35, the proposed development is considered reasonable as:

- The proposed development is considered reasonable having regard to the objectives behind the site coverage control. To this extent it is considered that adequate provision has been made on-site for infiltration of stormwater, deep soil planting, landscaping, footpaths, driveways and recreation areas;
- Despite the proposed variation to the site coverage control contained in DCP 35, the proposed development is not considered to result in any significant impacts on the amenity of adjoining or surrounding residences;
- As described by the applicant above, the ability to satisfy the maximum site coverage control contained in DCP 35 has been impacted upon by the need to retain the High Bay building and the Australia Street industrial façade which hold heritage significance;

- The large consolidated landscaped courtyard having an area of approximately 2,790sqm of landscaped open space and 1,285sqm as a new publicly accessible street and through-site link assist in opening up the site and providing provide significant public benefit.

Given the above the proposed development is considered reasonable having regard to the site coverage controls contained in DCP 35.

(iii) Building Setbacks

DCP 35 outlines minimum front, side and rear boundary setbacks for residential flat developments namely:

DCP 35 (Vol. 2)	Minimum Required
Front Setback	11.0m
Side and Rear Setback	DCP 35 prescribed: "For high-rise buildings and buildings above three storeys, each application shall be considered on merit. The above setbacks shall be maintained throughout the entire length of the building. NB Council may agree to a minor variation (25%) to the above setbacks in order to create visual interest, provided that a corresponding section of the wall has its setback increased by an amount which is equal to the reduction in setback elsewhere.

As indicated above the proposed development fails to satisfy the front setback control as prescribed under DCP 35. The applicant made the following submission in support of the proposed variation:

"The proposed development has a 3.1 m setback at ground level to Denison Street with a 1.6m wide strip proposed to be dedicated to Council. The three residential levels above the street will address the new street alignment. DCP 35 states "For high rise buildings and buildings over 3 storeys, each application shall be considered on its merits with a minimum front building setback of 11m". The stated objective of the setback control is to:

- *Integrated new development with the established setback character of the street;*
- *To maintain a reasonable level of amenity for neighbours with adequate access to sunlight and fresh air; and*
- *To ensure adequate separation between buildings for visual and acoustic privacy.*

The building setbacks proposed for new buildings have been guided by the setbacks of buildings to be retained on the site as well as the character of the local area and existing streetscapes. The proposed nil setback to the new street alignment is considered to be the appropriate urban design response, it reflects the historical nature of built form in the precinct and the broader locality. Providing a setback in accordance with Clause Part 2B.B3.C1 in DCP 35 would diminish the urban design response, weakening the streetscape and would also start to compromise the amenity of the central area of open space. It would also reduce the building separation between the proposed Denison Street and Australia Street buildings and result in an increase in provision of ground floor open space where it will receive less solar access. The established setback of Denison Street is buildings generally constructed on a zero lot line. The design of the proposed facades of Buildings C and D and the introduction of street tree planting along this frontage will sufficiently 'soften' the appearance of the proposed development. The proposed front setback is consistent with the stated objectives of the control and is considered appropriate given the site's local context."

The points raised by the applicant are considered to have merit and the proposed boundary setbacks, or lack thereof, are considered appropriate as:

- The buildings of heritage significance to be retained as part of the proposed development are constructed on a zero lot line. The new buildings respond to this building typology with a minimum front setback to create a solid street wall which is common to the area given the majority of the buildings are industrial in nature;
- The proposed development provides setbacks (or lack thereof) which achieve an urban design outcome consistent with the character of Denison Street and Australia Street;
- As pointed out by the applicant above, if Buildings C and D were constructed on a front boundary setback of 11 metres (as required under DCP 35), the buildings would not relate to the High Bay building and Australia Street façade which are to be retained as part of the development scheme; the building separation between those buildings and Building E would be significantly reduced; the central courtyard would be significantly smaller; and the dwellings provided in the development would be afforded reduced amenity with greater levels of overshadowing and reduced privacy; and
- The significant street tree planting in both Australia Street and Denison Street coupled with the “green” wall proposed in front of Buildings C and D would sufficiently ‘soften’ the appearance of the proposed development.

Given the above, it is considered that the new buildings (Buildings C and D) have been located, orientated and designed in a manner that is sympathetic and complementary to the existing built form and streetscape.

(iv) Streetscape, General Appearance and Materials

DCP 35 outlines the following objectives in relation to Streetscape, General Appearance & Materials:

- “O1 To encourage development which reflects contemporary values through a design approach, materials and construction technique, which provides an appropriate response to the historical context of the street and the wider locality.”*
- O2 To ensure new development achieves a cohesive relationship with existing development without distorting and obscuring the architectural and cultural significance of the locality.*
- O3 To ensure a high standard of building design that is sympathetic and complementary to the existing built form and streetscape.*
- O4. To ensure that the proposed external appearance of the new development, including materials and colour scheme, is compatible with the dominant palette.”*

As mentioned previously, the existing High Bay building and the Australia Street façade are to be retained and/or reconstructed given their significant heritage value and importance to their respective streetscapes. The new buildings (Buildings C and D) have been located and designed in a manner that is sympathetic and complementary to those retained buildings.

The applicant proposes vertical detailing, through modulation and articulation in the built form and the use of varied setbacks and screens. The detailing and finishes proposed for Buildings C and D are considered to result in buildings of a high architectural quality which will add positively to the streetscape of Denison Street. During the assessment of the development application concern was raised with the uncomplicated roof form proposed for Buildings C and D and whether it would add interest to the overall appearance of these buildings. The applicant contends that *“the proposed roof elements have been designed to be recessive, and to unify the varied roof forms”* and *“these roofs are deliberately understated and recessive in order to respect and strengthen the saw-tooth silhouette of the heritage façade in Australia Street”*. Given the surrounding context generally consists of residential and industrial buildings which have understated roof forms (with the exception of the saw tooth heritage facades which are retained as part of the proposed development) the applicant’s reasoning behind the roof form proposed for Buildings C and D is considered acceptable.

The applicant has submitted a schedule of materials and finishes with the subject development application. External materials and finishes have been chosen for their aesthetic qualities, energy efficiency and durability. The proposed finishes are considered appropriate and compliment the architectural design of the proposed development and the streetscape generally.

The extensive street tree planting, proposed in both Australia Street and Denison Street, coupled with the on-site landscaping are considered to 'soften' the proposed development further enhancing its general appearance.

As such, the proposed development is considered to satisfy the requirements relating to streetscape, general appearance and materials specified in DCP 35.

(v) Visual and Acoustic Privacy

DCP 35 outlines the following objective in relation to visual and acoustic privacy:

"O1 New development is to ensure adequate visual and acoustic privacy levels for neighbours and residents."

The proposed development is considered to provide satisfactory levels of visual and acoustic privacy for residents and neighbours alike. The separation distances provided in the layout and design of the proposed development ensures that all dwellings will receive adequate levels of visual and acoustic privacy.

As such, the proposed development is considered to satisfy Council requirements with regard to the protection of visual and acoustic privacy for residents and neighbours.

(vi) Landscaping and Open Space

DCP 35 outlines the following objectives in relation to Landscaping and Open Space:

"O1 To encourage site landscaping that complements the character of the individual building and the character of the area.

O2. To blend new development into the streetscape and neighbourhood.

O3. To retain and enhance existing significant trees and established planting found on site.

O4 To provide dwellings with useable private open space.

O5 To minimise the extent of hard paved areas and facilitate rainwater infiltration.

O6 To improve the appearance, amenity and energy efficiency of housing through integrated landscape design.

O7 To preserve and enhance native wildlife populations and habitat through appropriate planting of indigenous vegetation."

Compliance with the landscape area control as contained in DCP 35 is detailed below:

DCP 35 (Vol.2)	Required	Proposed	Compliance
Landscape Area	45% of site area	28%	No
Private Open Space	8sqm minimum dimension 2m	8sqm minimum dimension 2m	Yes

As indicated above the proposed development fails to satisfy the minimum landscaped area control as contained in DCP 35. The applicant made the following submission in relation to landscaping and private open space:

"In accordance with Clause 2C.C3.C1 of DCP 35, a minimum 45% of the total site area (or 4,456sqm) is to comprise landscaped area. The site currently provides some 2sqm of landscaped area (i.e. less than 1% of the site). The proposed development provides 28% (or 2,790sqm) of the site as landscaped area. DCP 35 does not specify a landscaped area control for warehouse / industrial conversions, in recognition that the conversion of such buildings involves working within an existing building envelope. DCP 35 goes on to state that Council will however require a certain level of open space to be provided for future residents. The proposed development includes the adaptive re-use of the High Bay building and retention of the existing Australia Street heritage facade.

The stated objectives of the landscaped area control are as follows:

- To encourage site landscaping that complements the character of the individual building and the character of the area.*
- To blend new development into the streetscape and neighbourhood.*
- To retain and enhance existing significant trees and established planting found on site.*
- To provide dwellings with useable private open space.*
- To minimise the extent of hard paved areas and facilitate rainwater infiltration.*
- To improve the appearance, amenity and energy efficiency of housing through integrated landscape design.*
- To preserve and enhance native wildlife populations and habitat through appropriate planting of indigenous vegetation.*

The proposed development is consistent with the stated objective of the landscaped area control in that:

- it complements the existing character of the area, with the selection of plant species, use of 'green' walls and materials such as timber (recycled and / or plantation grown), recycled brick and concrete. It also proposed to introduce new street trees along both the Australia and Denison Street frontages, consistent with the character of these streets further south of the site;*
- the proposed landscape design seeks to introduce a number of new street trees along all of its street frontages including the new publicly accessible street. As discussed above, existing buildings cover close to 90% of the site, with the only open area being the car sales yard at the Parramatta Road frontage. The provision of some 2,790sqm of landscaped open space;*
- it maximises the extent of deep soil zones (approximately 1,570sqm in area) and semipervious paving and will facilitate rainwater infiltration. The proposal will re-use rainwater collected from roofed areas for landscape irrigation. A detention tank is also provided beneath Building A;*
- future residents are well served in terms of landscaped open space. Each apartment is provided with generous areas (minimum 8sqm) of private open space, are within graded access to the proposed central area of open space and have excellent access to Camperdown Park which includes a playground, oval and a range of more active recreation opportunities;*
- the proposed landscape design is innovative and complements the proposed development. The introduction of street trees along Denison and Australia Street will 'enliven' both streets and make it a much more attractive area to walk through and spend time in; and*
- the proposed landscape design comprises predominantly native species.*

The proposed development significantly increases the amount of landscaped area on the site. It is also consistent with the stated objectives of the control and is considered acceptable given the site's local context, site conditions and buildings being retained. The proposed area of landscaping is considered appropriate."

Similar to the proposed variation to site coverage, the applicant's submission having regard to the proposed variation to the landscaping control contained in DCP 35 is considered to have merit for the following reasons:

- The proposed development generally conforms to the building envelope controls satisfying the FSR and height controls prescribed under MLEP 2001 (Amendment No. 33); and
- The proposed development is considered reasonable having regard to the objectives behind the landscaping controls. It is considered that adequate landscaping has been provided to allow for on-site for infiltration of stormwater, deep soil planting, landscaping, footpaths, driveways and recreation areas.

Given the above the proposed development is considered acceptable having regard to the landscaping controls contained in DCP 35.

As indicated in the table above, each dwelling is to be provided with a useable balcony/courtyard directly accessible from the primary internal living areas of the proposed dwellings in accordance with DCP 35. The areas of private open space take advantage of the site's aspect and serve as an extension of the dwelling, providing an external space for relaxation, dining, entertainment, recreation and children's play area.

Given the above, the proposed development is considered reasonable having regard to the provision of landscaping and open space.

11. Marrickville Development Control Plan No. 19 - Parking Strategy (DCP 19)

(i) Car Parking

A table detailing compliance with the car parking, loading and bicycle parking requirements contained in Marrickville Development Control Plan No. 19 - Parking Strategy (DCP 19) is outlined below:

DCP 19 – Parking Strategy	Required	Proposed	Compliance
Resident (1 space per dwelling)	188	188	Yes
Visitor (1 per 4 dwellings)	47	47	Yes
Commercial Premises (1 per 45sqm)	24	24	Yes
Loading Dock	Yes	Yes	Yes
Bicycle Parking	26	26	Yes

As illustrated above, the proposed development satisfies the car parking requirements specified under DCP 19.

Vehicular access to the site is to be provided from New Street. New Street is a new road to be constructed on the northern part of the site, which connects Australia Street with Denison Street for both vehicles and pedestrians. New Street will provide a 5.5 metre wide carriageway for two way traffic with indented parking bays on the southern side of the street. A pedestrian path is provided on the southern side of the road. Access to the basement levels of car parking is provided off New Street via two x two-way ramps. The ramp proposed on the northern side of New Street provides access to the basement level of car parking below Building A, whilst the ramp located on the

southern side of New Street provides vehicular access to the car parking provided on that portion of the site zoned Residential 'C'.

The parking layout on all levels is set out in a simple and clear manner with residential parking generally provided beneath the buildings. Parking spaces, aisles and ramps have been designed in accordance with the Australian Standard for Off Street Parking AS2890. 1 - 2004. It is considered that the access arrangements and layout of parking areas are appropriate.

A loading dock is indicated for the ground level commercial spaces with access off New Street. The loading dock has been designed to cater for a medium rigid sized truck, which would reverse into the dock from New Street.

Given the above, the proposed development is considered to satisfy the access and car parking requirements specified under DCP 19.

(ii) Traffic

The applicant submitted a Traffic Report prepared by Colston Budd Hunt and Kefes Pty Ltd as part of the subject development application. The Traffic Report identified by the proposed development would have the following traffic implications:

- "i) the proposed development is in accordance with government policy and would increase residential densities close to existing public transport services;*
- ii) the proposed parking provision is considered appropriate;*
- iii) access arrangements and parking layout will be provided in accordance with AS2890.1:2004*
- iv) the construction of the new public road to link Australia Street and Denison Street, at the northern end of the site, would result in a better distribution of traffic;*
- v) the proposed development will have a lower traffic generation compared to the previous site operation (motor showroom and service centre) and the current approved development;*
- vi) the proposed development would result in relatively minor changes in traffic flow on the surrounding road network, typically less than one vehicle every one to two minutes; and*
- vii) the surrounding road network will be able to cater for the traffic generated by the proposed development."*

It is evident from the information contained within the traffic report that the proposed development would not result in any additional demand for traffic than the mixed use development approved under Determination No. 200400785. It is further noted that in order to reduce the impacts of the proposed development would have on the operation of Kilner Lane, Council required amended plans to be submitted which indicated that access to the "new road" from Denison Street was restricted to "left in only" with no exit from Denison Street.

The issue of access and traffic has been considered under heading 5 above. As pointed out above the applicant submitted amended plans and additional information which responded to the comments from the SRDAC and Council's Development Control Engineer. Council's Development Control Engineer has reviewed the amended plans and additional information and raised no objection to the proposed development subject to the imposition of appropriate conditions.

As such, the proposed development is considered to have a reasonable traffic impact on the surrounding road network.

12. Marrickville Development Control Plan No. 27 – Waste Management (DCP 27)

In accordance with Marrickville Development Control Plan No. 27 - Waste Management, a Site Waste Management Plan was submitted with the development application together with details on waste storage and recycling.

The application was referred to Council's Waste Management Officer who advised:

"The garbage/recycling rooms are of a sufficient size to store the 188 bins required (i.e. 94 x 240L garbage bins and 94 x 240L recycling bins).

Bins will need to be presented onto Denison Street on Sunday night for Monday collection."

The garbage/recycling rooms in the proposed development were undersized as the applicant proposed the installation of a compactor in some of the rooms thereby reducing the number of bins required. Council's Waste Management Officer raised Occupational Health and Safety concerns with the installation of the compactors. The applicant subsequently amended the development by removing the previously proposed compactors and increasing the size of the garbage/recycling rooms to comply with the controls contained in DCP 27.

A condition requiring an updated Site Waste Management Plan prepared in accordance with Council's requirements to be submitted to and approved by Council should be imposed on any consent granted. Furthermore, to ensure the collection of domestic bins does not interfere with pedestrian movements around the site or the amenity enjoyed by occupants of the subject development and adjoining properties a condition should be imposed on any consent granted prescribing that the domestic bins are not to be placed on Denison Street until after 7.00pm on the day prior to collection and are to be returned to their storage location within the building within two (2) hours of being collected by Council.

Subject to the above, the proposed development is considered reasonable having regard to waste management.

13. Marrickville Development Control Plan No. 31 - Equity of Access and Mobility (DCP 31)

Marrickville Development Control Plan No. 31 - Equity of Access and Mobility (DCP 31) requires access and facilities to be provided for persons with a disability to the retail component of the development. DCP 31 also requires that at least 10% of the total number of dwellings in a multi unit housing and residential flat developments containing 10 or more dwellings to be designed in accordance with Australian Standard AS 4299 – Adaptable Housing.

A table detailing compliance with the controls relating to access and adaptable housing contained in DCP 31 is indicated below:

DCP 31 – Equity of Access and Mobility	Required	Provided	Compliance
Disabled access to ground level retail/commercial	Yes	Yes	Yes
Adaptable Dwellings (1 per 10 dwellings) with associated disabled parking space	19	19	Yes

As illustrated above, the proposed development complies with Council's requirements in relation to the provision of adaptable dwellings and the provision of disabled access to the ground level retail and commercial development. It should also be noted that an appropriate number of disabled car parking spaces have been provided in the basement car park to cater for the adaptable dwellings and disabled visitors.

The applicant submitted an Access Review Report prepared by Morris-Goding Accessibility Consulting as part of the subject development application which states in part:

“The development has been reviewed to ensure that ingress and egress, paths of travel, circulation areas and toilets comply with relevant statutory guidelines.

In general, the development has accessible paths of travel that are continuous throughout. In line with the report’s recommendations, the proposed development has demonstrated an appropriate degree of accessibility. The Development Application drawings indicate that compliance with statutory requirements, pertaining to site access, common area access, accessible parking and adaptable units, can be readily achieved.

The recommendations in this report are associated with detailed design. These recommendations should be addressed prior to construction certificate.”

The proposed development is considered to satisfy the requirements contained in DCP 31. A condition requiring compliance with recommendations contained in the Access Review Report prepared by Morris-Goding Accessibility Consulting should be imposed on any consent granted.

14. Marrickville Development Control Plan No. 38 - Community Safety (DCP 38)

The proposal will be generally consistent with the controls for community safety outlined in Marrickville Development Control Plan No. 38 - Community Safety (DCP 38) in that:

- the layout of the proposed development provides casual surveillance of the adjoining public areas as well as the private street, walkway and communal open space area;
- the ground floor shop will retain an active street frontage for surveillance; and
- the buildings will have direct, obvious and secure entries.

As such, community safety is considered to be well served by the proposed development.

15. Staged Construction and Occupation

In the Statement of Environmental Effects submitted with the development application it states:

“It is the intention of the applicant to construct and occupy the proposed development in stages.”

Whilst this brief statement is included in the Statement of Environmental Effects submitted with the development application, no details were provided as to the proposed staging of the development. It is considered that insufficient information has been submitted with the development application to allow consideration of the applicant’s proposal to construct and occupy the proposed development in stages. In order to consider the possible staging of the proposed development the following information would be required:

- Details of each stage of the development; and
- A planning assessment that indicates that each stage of the development will contain sufficient car parking, open space and facilities for that stage of the development to operate independently of any future stages of the project;

The above information would be required to ensure any development consent was prepared in such a manner as to allow each stage of the development to be constructed and occupied independently of each other.

It is considered that the proposed staging of the development would need to be the subject of a future application once the above matters have been considered and addressed by the applicant.

16. Marrickville Section 94 Contributions Plan 2004

It is considered that the carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A contribution of \$2,476,205.42 would be required for the proposed redevelopment under Marrickville Section 94 Contributions Plan 2004. A condition requiring the above contribution to be paid should be imposed on any consent granted.

17. Advertising/Notification

The application was advertised, an on site notice was erected and residents/property owners in the vicinity of the subject property were notified of the proposed development in accordance with Council's Policy. Eight (8) submissions were received raising the following concerns:

Excessive Height

Five (5) objectors raised concern with the height of the proposed development, particularly the building fronting Parramatta Road, suggesting that it is out of character with the surrounding developments. This issue has been canvassed in the main body of the report. As pointed out above the proposed development satisfies the maximum height control contained in MLEP 2001 (Amendment No. 33). Furthermore the buildings proposed as part of the proposed development are similar in height to the development scheme approved under Determination No. 200400785. The precinct in which the subject site is located is characterised by a range of buildings, including two buildings of similar height to that proposed (the 'Franks' Building and the former Strathfield Car Radio Building) and the proposed development compares favourably to a development proposed by Housing NSW at 163-185 Parramatta Road, Camperdown. As such the height of the proposed development would not be out of character with the existing and likely future character of the area.

Traffic and Car Parking

Six (6) objectors raised concern with the impact that the proposed development would have on traffic and the availability of on-street car parking in the surrounding area. This issue has been canvassed in the main body of the report and as pointed out above, the proposed development provides car parking in accordance with the requirements contained in DCP 19 and will not result in an unreasonable impact on traffic in the surrounding road network.

Density

Three (3) objectors raised concern with the density of the proposed development. As pointed out in the assessment above, the proposed development satisfies the maximum floor space controls as contained in MLEP 2001 (Amendment No. 33). Furthermore, the density of the proposed development which is to contain 188 dwellings is similar to the development approved under Determination No. 200400785 which contains 179 dwellings. As such the density of the proposed development is considered reasonable.

Overshadowing

Three (3) objectors raised concern with the shadow impact likely to result from the proposed development, with particular concerns raised with the shadow impact of Building A which fronts Parramatta Road. The shadow impact of Building A and the remainder of the development has been considered in the main body of the report. As pointed out above, the shadow impact of the proposed development is almost identical to the shadow impact of the development approved under Determination No. 200400785. The shadow diagrams submitted by the applicant indicate that the proposed development will not result in any material overshadowing of adjoining buildings in mid-winter.

Privacy

Two (2) objectors raised concern with the impact that the proposed development will have on privacy. The proposed development occupies the entire block between Australia Street and Denison Street and is adjoined by a non-sensitive industrial building to the south. As such the residential buildings provided in the proposed development are separated from adjoining residential buildings by Australia Street and Denison Street. The layout and design of the proposed development is considered to minimise opportunities for overlooking. As such the proposed development is not considered to result in any significant privacy impacts.

Impacts during construction

Two (2) objectors raised concern about amenity impacts such as noise and vibration that are likely to occur during construction. Standard conditions which aim to mitigate and limit impacts during construction should be imposed on any consent granted. A condition requiring a Traffic Management Plan to be submitted to and approved by Council is also proposed in the recommendation to ensure the construction of the building does not significantly impact on traffic and car parking in the surrounding streets.

Impact on the operation of Kilner Lane

Two (2) objectors raised concern with the impact that the proposed development would have on the operation of Kilner Lane and it was suggested that Kilner Lane should be closed at the intersection with Denison Street. During the assessment of the development application Council required the proposed New Street to be redesigned access to New Street from Denison Street is restricted to "left in only" and with no exit to Denison Street. By requiring all vehicles to exit the development via New Street and Australia Street it is considered that the proposed development would not result in a significant increase in traffic in Kilner Lane. Any proposal to close Kilner Lane at the intersection with Denison Street is not considered to be of relevance in the assessment of the subject development application.

Cumulative Impacts

One objector raised concern that there are an excessive number of high density developments in the surrounding area which are putting a strain on local resources/services. The proposed development is a permissible form of development under MLEP 2001 (Amendment No. 33) and is considered to be consistent with the zoning provisions applying to the land. It is considered that the carrying out of the proposed development would result in an increased demand for public amenities and public services within the area and a condition requiring a Section 94 Contribution to be paid should be imposed on any consent granted.

Streetscape

One objector raised concern with the general appearance of the proposed development stating that it is out of character with the existing streetscapes. This issue has also been canvassed in the main body of the report. As pointed out above, the application proposes to retain the heritage significant industrial facades as part of the proposed development and the new buildings have been located, orientated and designed in a manner that is sympathetic and complementary to the existing built form and streetscape.

Skyscape

One objector raised concern with the impact that the proposed development would have on the skyline, stating that the erection of such tall building will "*drastically changes the skyline of the area*". As pointed out above, the proposed development satisfies the height controls contained in MLEP 2001 (Amendment No. 33) and the buildings proposed as part of the proposed development are similar in height to the development scheme approved under Determination No. 200400785. Furthermore, the precinct in which the subject site is located includes two buildings of similar height to that proposed (the 'Franks' Building and the former Strathfield Car Radio Building) and the proposed development compares favourably to a development proposed by Housing NSW at

163-185 Parramatta Road, Camperdown. As such the proposed development is not considered to have an unreasonable impact on the skyline.

Pedestrian Access

One objector stated that the pedestrian access is a positive aspect of the proposed development and should be maintained in the future. The pedestrian through site link is to allow pedestrian access through the site 24 hours a day and is one of the principal public benefits created by the proposed development. A condition requiring the through site link to remain open and accessible to the general public 24 hours a day seven days a week with no gates or other obstructions to be installed without the prior approval of Council should be imposed on any consent granted.

Proximity and impact on O'Dea Reserve

One objector raised concern with the impact that the proposed development will have on O'Dea Reserve. O'Dea Reserve is located approximately 250m to the south west of the site and the proposed development will not result in any adverse environmental impacts to the reserve.

Heritage Building should not be transformed into apartments

One objector raised concern with the proposal to adaptively re-use heritage significant buildings as apartments suggesting that such buildings should be utilised for public purposes. The subject site is in private ownership and the form of development proposed is permissible with consent under MLEP 2001 (Amendment No. 33). The applicant proposes to retain the heritage significant elements of the existing industrial building and the proposed development is considered reasonable having regard to heritage.

Business activity not appropriate

One objector raised concern with the provision of business activities that require a large amount of parking being provided in the area. The commercial component of the proposed development is located on that portion of the site which fronts Parramatta Road which is zoned General Business. The proposed development contains less commercial floor space than the development approved under Determination No. 200400785. A separate Development Application will need to be submitted to, and approved by, Council for the use of each ground floor shop prior to the occupation of that part of the premises.

18. Conclusion

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act of relevance to the application have been taken into consideration and the application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

PART E - RECOMMENDATION

- A. THAT** the development application to demolish part of the premises, excavate the site and construct a mixed use development containing five buildings, including adaptive reuse of heritage buildings, ranging in height from 2 storeys to a 5 part 6 storey building, containing a combined total of 188 dwellings, approximately 1,055sqm of retail/commercial space, off street car parking for 259 spaces, construct a new publicly accessible street connecting Denison Street to Australia Street, construct a publicly accessible pedestrian through site link connecting Denison Street to Australia Street, street tree planting and footpath upgrade works along Denison Street be **APPROVED** and a **DEFERRED COMMENCEMENT CONSENT** be issued subject to the following terms and conditions:

PART A - DEFERRED COMMENCEMENT CONSENT

The consent will not operate and it may not be acted upon until the Council or its delegate is satisfied as to the following matters:

1. The Proposed New Road Layout and Signage Plan No. 1, dated 15 September 2009, submitted with the development application shall be redesigned to enforce the "left in only" traffic restriction in accordance with the amendments marked up in green on the approved plan.
Reason: To enforce the "left in only" restriction and to ensure vehicles do not use Kilner lane to access or leave the site.
2. A Conservation Management Strategy is developed with Action Plans which cover the following:
 - a) A methodology for the shoring and retention of the existing end brick walls of the High Bay building and of the Australia Street brick facade during construction works.
 - b) A methodology for the disassembling of existing brickwork, the temporary storage of existing bricks and the reinstatement of the brickwork in the high bay building.
 - c) A methodology for the dismantling, storage and reassembling/reinstatement of existing steel roof trusses.
 - d) A methodology for the repair and conservation of existing steel roof trusses.
 - e) A methodology for repair and conservation of existing timber windows, timber louvres, and other joinery on the facades to be retained.
 - f) A methodology for repair and conservation of existing metal windows on the facades to be retained.

The Conservation Management Strategy being submitted to and approved by Council's Heritage and Urban Design Advisor.

Reason: To ensure the future and ongoing maintenance of the heritage item.

3. An Interpretation Plan being submitted to and approved by Council's Heritage and Urban Design Advisor. The Plan shall be a short report explaining interpretation methods and provide details as to how each is to be achieved.
Reason: To ensure the significance of the heritage item is recorded, interpreted and demonstrated as part of the development and future management of this site.

Evidence of the above matters must be produced to the Council or its delegate within two (2) years from the date of this Determination otherwise the Consent will lapse.

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan No. and Issue	Plan/ Certificate Type	Date Issued	Prepared by	Date Submitted
DA2.001 (Rev. B)	Basement 02 Plan	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.002 (Rev. B)	Basement 01 Plan	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.100 (Rev. D)	Ground Floor Plan	30 September 2009	Bates Smart Pty Ltd	30 October 2009

DA2.101 (Rev. B)	Level Plan 01	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.102 (Rev. B)	Level Plan 02	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.103 (Rev. B)	Level Plan 03	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.104 (Rev. B)	Level Plan 04	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.105 (Rev. B)	Level Plan 05	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA2.106 (Rev. B)	Roof Plan	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA3.101 (Rev. B)	Elevation 01	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA3.102 (Rev. B)	Elevation 02	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA4.101 (Rev. B)	Section 01	30 September 2009	Bates Smart Pty Ltd	30 October 2009
DA4.102 (Rev. B)	Section 02	30 September 2009	Bates Smart Pty Ltd	30 October 2009
S110004	Schedule of Materials and Finishes	July 2009	Bates Smart Pty Ltd	30 October 2009
231521M	BASIX Certificate	4 February 2009	The Department of Planning	20 July 2009
231981M	BASIX Certificate	4 February 2009	The Department of Planning	20 July 2009
232168M	BASIX Certificate	4 February 2009	The Department of Planning	20 July 2009
232304M	BASIX Certificate	4 February 2009	The Department of Planning	20 July 2009
232371M	BASIX Certificate	4 February 2009	The Department of Planning	20 July 2009
LDA-01	Landscape Plan	July 2009	Aspect Studios	20 July 2009
LDA-02	Landscape Plan	July 2009	Aspect Studios	20 July 2009
LDA-03	Landscape Plan	July 2009	Aspect Studios	20 July 2009

submitted with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. Site remediation works being carried out for the site in accordance with Remedial Action Plan, (reference 139-143 Parramatta Road, Camperdown, October 2003, Project 36253A) prepared by Douglas Partners. Once these works have been carried out a validation report

is to be submitted to Council prepared in accordance with the requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites to Council's satisfaction.
Reason: To ensure that the site is suitable for the intended use.

3. A separate Development Application being submitted to, and approved by, Council for the use of each ground floor shop prior to the occupation of that part of the premises.
Reason: To advise the applicant of the necessity of obtaining Council approval for the use of the premises prior to occupation.
4. The shop window display areas being maintained at all times with no roller shutters being installed across the shop fronts.
Reason: To preserve the streetscape and character of the area.
5. The dwellings being used exclusively as a single dwellings and not being adapted for use as backpackers' accommodation, serviced apartments or a boarding house and not being used for any industrial or commercial purpose.
Reason: To ensure that the premises are used exclusively as single dwellings.
6. A minimum of two hundred and fifty nine (259) off-street car parking spaces and a loading dock being provided and maintained at all times in accordance with the standards contained within Marrickville Development Control Plan No. 19 - Parking Strategy prior to the commencement of the use.
Reason: To confirm the details of the application as submitted by the applicant.
7. All parking spaces and turning area thereto being provided in accordance with the design requirements set out within Marrickville Development Control Plan No. 19 - Parking Strategy, and being used exclusively for parking and not for storage or any other purpose.
Reason: To ensure adequate manoeuvrability to all car parking spaces and that the spaces are used exclusively for parking.
8. A minimum of forty seven (47) visitor car parking spaces are required as part of the total parking required under this Determination being provided and marked as visitor car parking spaces. A sign legible from the street shall be permanently displayed to indicate that visitor parking is available on site.
Reason: To ensure that visitor car parking spaces are provided and marked accordingly and that visitors are advised and directed to such parking.
9. A minimum of nineteen (19) adaptable dwellings being provided in accordance with Marrickville Development Control Plan No. 31 - Equity of Access and Mobility. One disabled parking space being allocated to each adaptable dwelling.
Reason: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.
10. Twenty six (26) disabled car parking spaces required as part of the total parking required under this Determination being provided and marked as disabled car parking spaces. A sign legible from the street shall be permanently displayed to indicate that disabled parking is available on site.
Reason: To ensure that disabled car parking spaces are provided and marked accordingly and that disabled persons are advised and directed to such parking.
11. The through site link which is located between Buildings C and D and bisects Building E which provides pedestrian access from Denison Street to Australia Street is to remain open and accessible to the general public 24 hours a day seven days a week with no gates or other obstructions installed without the prior approval of Council.
Reason: To confirm the details of the application as submitted by the applicant and ensure pedestrian access is in and around the site is improved for the general public

12. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise.

Reason: To protect the amenity of the locality.

13. The use of the premises, including any plant and equipment, not giving rise to:

- transmission of unacceptable vibration to any place of different occupancy;
- a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).

NOTE: Marrickville Council has adopted a 3dB(A) goal in order to prevent background noise creep and the 5dB(A) criteria as outlined in the above mentioned references are not to be used.

Reason: To prevent loss of amenity to the area.

14. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises not giving rise to 'offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure their operation does not adversely impact on the amenity of the surrounding neighbourhood.

Reason: To protect the amenity of the surrounding neighbourhood.

15. A separate application being submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.

Reason: To ensure the compliance of any advertisements or advertising structures with the requirements of Council's Advertising Code.

16. The domestic bins are not to be placed on Denison Street for collection until after 7.00pm on the day prior to collection and are to be returned to their storage location within the building within two (2) hours of the bins being collected by Council. The owner's corporation being responsible to ensure compliance with this condition.

Reason: To ensure the appropriate disposal of waste generated on the site and protect the amenity of residents of adjoining properties.

17. The developer liaising with the Sydney Water Corporation, the Energy Australia, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced.

18. All building work shall be carried out in accordance with the provisions of the Building Code of Australia.

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the Building Code of Australia.

19. The swimming pool is to be used exclusively in association with the residential flat buildings on the property and not being used for any commercial purpose.

Reason: To ensure that the swimming pool is not used for any commercial purposes.

20. An appropriately qualified and experienced conservation practitioner or architect being engaged by the person acting on this consent to guide the conservation works with a view to maximising the retention of the historic fabric.
Reason: To ensure the significance of the heritage item is maintained and enhanced.
21. The person acting on this consent being responsible to ensure that only appropriately experienced trades people are involved with the project to ensure the appropriate professional treatment of the original fabric.
Reason: To ensure the significance of the heritage item is maintained and enhanced.
22. The person acting on this consent must not commence excavation until a qualified and experienced archaeologist is appointed to undertake a watching brief during all excavation works.
- Should any historical relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the Heritage Act 1977.
Reason: To ensure the management of potential archaeological relics in accordance with the requirements of the NSW Heritage Act.
23. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before occupation of the site.
Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council.
24. Owners and occupants of the proposed building shall not be eligible for any existing or future resident parking scheme for the area. The person acting on this consent being responsible to advise any purchaser or prospective tenant of this condition.
Reason: To ensure the development does not reduce the amount of "on street" parking currently available.
25. The awning shall be of cantilever type and be set back at least 600mm from the kerb line. Further, the total width of the awning that extends beyond the road alignment shall not exceed 3600mm. The proposed awning shall be designed so as to be easily removed if required in future. The owner shall maintain, modify or remove the structure at any time if given notification by Council or the RTA to do so at no cost to Council or the RTA.
Reason: To ensure the awning complies with Council requirements.
26. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Energy Australia directly with regard to the possible provision of such an installation on the property.
Reason: To provide for the existing and potential electrical power distribution for this development and for the area.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the Building Code of Australia.

27. No work shall commence until:

- a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council shall be notified within two (2) days of the appointment; and
- b) A minimum of two (2) days written notice given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

28. A Construction Certificate shall be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

29. Sanitary facilities are to be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet shall be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities are to be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

30. All demolition work shall:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment and Climate Change.

Reason: To ensure that the demolition work is carried out safely.

31. Where any loading, unloading or construction is to occur from a public place, Council's Technical Services Division shall be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

32. All services in the building being demolished are to be disconnected in accordance with the requirements of the responsible authorities before work commences.

Reason: To ensure that the demolition work is carried out safely.

33. A waste management plan shall be prepared in accordance with Marrickville Development Control Plan No. 27 - Waste Management and submitted to and accepted by the PCA before work commences.

Reason: To ensure the appropriate disposal and reuse of waste generated on the site.

34. The site shall be enclosed with suitable fencing to prohibit unauthorised access. The fencing shall be erected as a barrier between the public place and any neighbouring property, before work commences.

Enquiries for site fencing and hoardings in a public place, including the need for Council approval, can be made by contacting Council's Technical Services Division.

Reason: To secure the area of the site works maintaining public safety.

35. A rigid and durable sign shall be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign is to include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

36. A Soil and Water Management Plan shall be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document shall be submitted to and accepted by PCA before work commences. The plan shall indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
- d) How access to the site will be provided.

All devices shall be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

37. The person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before work commences, on the buildings immediately adjoining and located on the adjoining properties at No.27 Australia Street and 32 Denison Street, if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received shall be forwarded to the PCA before work commences.

Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.

38. All contractors and subcontractors involved in the construction works are to be briefed on the heritage significance of the buildings prior to work commencing.

Reason: To ensure the significance of the heritage item is maintained and enhanced.

39. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Reason: To ensure all necessary approvals have been applied for.

40. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings in the amount of \$1,939.85, as provided for in Council's adopted fees and charges.

Reason: To ensure that all restoration works are in accordance with Council's Code.

41. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the applicant shall submit a hoarding application and pay all relevant fees before commencement of works.

Reason: To secure the site and to maintain public safety

42. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include proposed truck parking areas, construction zones, crane usage, truck routes, number of trucks and access arrangements etc. All demolition and construction vehicles are to be wholly contained within the site and vehicles must enter the site before stopping. A Road Occupancy Licence shall be obtained from the RTA for any works that may impact on traffic flows on Parramatta Road.

Reason: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.

43. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the commencement of works (including any demolition works).

Reason: To ensure the existing condition of Council's infrastructure is clearly documented.

44. Alignment levels for the site at all pedestrian and vehicular access locations shall be obtained from Council's Director, Technical Services before the commencement of construction. The alignment levels shall match the existing back of footpath levels at the boundary. Failure to comply with this condition will result in vehicular access being denied.

Reason: In accordance with Council's powers under the Roads Act, 1993, alignment levels at the property boundary will be required to accord with Council's design or existing road and footpath levels.

BEFORE THE ISSUE OF THE CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority is that person appointed to issue the Construction Certificate.

45. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Sydney Water written advice that you have obtained the Notice of Requirements must be submitted to Council's satisfaction before the issue of a Construction Certificate.

Reason: To comply with the requirements of that Act.

46. The separate lots comprising the development being consolidated into one lot and under one title and registered at the Land Titles Office before the issue of a Construction Certificate.

Reason: To prevent future dealing in separately titled land, the subject of one consolidated site development.

47. A design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development being submitted to Council's satisfaction before the issue of a Construction Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

48. Letterboxes and mail collection facilities being provided and adequately protected in accordance with details to be submitted to the satisfaction of the Certifying Authority before the issue of a Construction Certificate.
Reason: To ensure adequate mail collection facilities are provided.
49. Bicycle storage with the capacity to accommodate a minimum of 26 bicycles being provided in accordance with the requirements set out within Marrickville Development Control Plan No. 19 - Parking Strategy, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
Reason: To ensure sufficient bicycle storage facilities are provided on the site.
50. The street tree planting scheme for Australia Street and Denison Street being submitted for approval of the Director, Technical Services before the issue of a Construction Certificate. Tree species selection and location shall be developed in consultation with Council's Parks & Reserves Section. Such plan to also contain details as to the location of power poles and overhead power lines, manholes, vehicular crossings, footpaths and the like. All street trees shall be of a super advanced height, appropriately planted. All costs associated with the planting of street trees shall be borne by the applicant.
Reason: To ensure appropriate street tree planting.
51. Each dwelling is to contain a hot water system with a minimum 3.5 star Greenhouse rating and being fitted out with AAA rated showerheads, basin and kitchen sinks, dual flush toilets and if proposed an energy efficient clothes drying machine in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
Reason: To comply with the requirements of Marrickville Development Control Plan No. 32 - Energy Smart Water Wise.
52. Noise attenuation measures being incorporated into the development in accordance with the recommendations contained in the Acoustic Assessment Report prepared by Arup Acoustics complying with requirements contained in State Environmental Planning Policy (Infrastructure) 2007 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of State Environmental Planning Policy (Infrastructure) 2007
Reason: To reduce noise levels within the proposed development from vehicular traffic.
53. Noise attenuation measures being incorporated into the development complying with Australian Standard 2021-2000 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2000.
Reason: To reduce noise levels within the proposed development from aircraft.
54. Plans and specifications fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
Note: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate (Refer to Clause 6A of Schedule 1 to the Regulation)
Reason: To ensure that the BASIX commitments are incorporated into the development.
55. Plans and specifications fully reflecting the recommendations contained in the Access Report prepared by Morris-Goding Accessibility Consulting dated 9 March 2009 submitted with the

application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure that the premises provide equitable access to all persons.

56. Lighting details of the pedestrian areas, parking areas and all entrances being submitted to Council's satisfaction before the issue of a Construction Certificate.

Reason: To ensure appropriate lighting is provided to create a safe living environment.

57. Evidence of payment of the building and construction industry Long Service Leave Scheme shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) before the issue of a Construction Certificate. The required payment of \$158,550 can be made at the Council Offices. This fee has been based on an estimated cost of works of \$45,300,000.

NB: The required payment referred to above is based on the estimated cost of building and construction works as stated on the development application and the current long service levy rate, set by the Long Service Payments Corporation, of 0.35% of the cost of the building and construction work.

The payment is required to be paid before the issue of a Construction Certificate and the required payment may change if the estimated cost of works has increased at that time or the levy rate has changed. In such circumstances the necessary payment will need to be re-calculated. For more information on how and where payments can be made contact the Long Services Payments Corporation.

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

58. A total monetary contribution of \$2,476,205.42 has been assessed as the contribution for the development under Section 94 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94 Contributions Plan 2004 (a copy of which may be inspected at the offices of the Council). The contribution is towards:-
- a) \$1,211,888.63 Section 94 Contributions Plan 2004 for Camperdown and Stanmore Area - Open Space, Park Infrastructure and Sports Facilities;
 - b) Council wide projects:
 - (i) \$173,126.95 Cooks River;
 - (ii) \$173,126.95 Tempe Reserve/Tempe Lands;
 - (iii) \$86,563.48 Civic Centre; and
 - (iv) \$86,563.48 Street Tree Master Plan.
 - c) \$418,502.94 Public Libraries and Community Recreation Facilities;
 - d) \$268,396.97 Section 94 Contributions Plan 2004 for Camperdown and Stanmore Area - Traffic Management; and
 - e) \$58,036.06 Plan Administration.

The monetary contributions above are the Council's adopted contributions under the current Fees and Charges Schedule. Under Marrickville Contributions Plan 2004, contributions will be adjusted at the time of payment in line with any change in the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics. The adjusted contribution payable will be the rate in the Council's adopted Fees and Charges Schedule for the financial year in which the contribution is paid.

The contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only)** before the issue of a Construction Certificate. Under Marrickville Section 94 Contributions Plan 2004 payment of Section 94 contributions **CANNOT** be made by Personal Cheque, Company Cheque or Credit Card.

NB: The above Contributions apply to end of Financial Year 2009/2010 after which the Contributions will be indexed.

Reason: To ensure provision is made for the increased demand for public amenities and services required as a consequence of the development being carried out.

59. Before the issue of a Construction Certificate an amended plan being submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) indicating the mechanical services plant located on the roof tops to be adequately screened.

Reason: To ensure that the visual amenity of the building is maintained.

60. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

61. The foundations of the proposed development adjacent to the Sydney Water's stormwater pipe shall be constructed so that no surcharge loads are imposed upon the channel. Plans, and supportive documents, detailing the proposed foundations adjacent to the stormwater pipe, shall be submitted to Council before the issue of a Construction Certificate.

Reason: To ensure the drainage system is protected.

62. A strip of land 1.5 metres wide and variable along the Denison Street frontage shall be dedicated to the public at no cost to Council before the issue of a Construction Certificate to allow for the widening of the footpath to 3m.

Reason: To allow for the safe pedestrian access adjacent to the site.

63. Plans, details and calculations of the proposed On Site Detention system for the commercial building fronting Parramatta Road being submitted to and accepted by Council before the issue of a Construction Certificate. The design of the OSD system shall comply with the following:-

- a) The on site detention system shall be designed for all storm events from the 1 year to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (20 year ARI);
- b) Storage for the 1 year storm event shall be provided fully below ground;
- c) Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system;
- d) Details of the Height v Storage and Height v Discharge relationships shall be submitted; and
- e) Details of the 1 in 100 year overflow route in case of failure\blockage of the drainage system shall be provided.

Reason: To ensure the development does not increase the stormwater runoff from the site and to ensure that there are no dry-weather flows of any seepage water.

64. Detailed construction plans of the major overland flowpath through the site from Australia Street to Denison Street being submitted to the Director Technical Services before the issue of a Construction Certificate. Details shall include long sections and cross sections of the overland flow path indicating the top water level profile. Details of the velocity x depth calculation shall also be submitted to ensure that the overland flowpath is acceptable. A qualified civil engineer who is listed under the Institution of Engineers, Australia "National

Professional Engineers Register" (NPER) shall certify that the design is in accordance with the design and flood report prepared by Hughes Trueman dated June 2009 and that the underground car park and all residential and commercial floor areas are protected by 500mm freeboard. The certificate shall also certify that the design of the landscaped courtyard is compatible with its use as an overland flowpath and that it will be able to tolerate the flow velocities and expected flooding and not result in any undue erosion.

Reason: To enable the assessment of the pump/sump system.

65. Plans and associated details for the installation of the proposed pump/sump system being submitted to and accepted by Council before the issue of a Construction Certificate. The pump/sump system shall consist of two (2) pumps and a storage tank. The pumps being arranged for staggered starts (duty and stand-by) with an automatic switch-over facility to change the duty pump. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the water may be stored separately on site and reused for the watering of landscaped areas.

Reason: To enable the assessment of the pump/sump system.

66. Detailed plans of the proposed water re-use system to be used for toilet flushing including the tanks, the supply and the reticulation system being submitted to and approved by Council before the issue of a Construction Certificate. The system shall comply with Sydney Water and Health Department requirements and include mosquito protection and a first flush device.

Reason: To enable the assessment of the water re-use system.

67. Compliance with the following requirements of the Sydney Regional Development and Advisory Committee:

- a) Access to the new road from Australia Street shall be a minimum 5.5m in width for a minimum distance of 6m within the subject site to allow for simultaneous entry and exit movements;
- b) The design of the access to the basement car parks shall comply with the sight distance requirements of AS2890.1:2004 (Parking Facilities, Part 1: Off-street car parking);
- c) The layout of the proposed car parking areas associated with the subject development including driveways, grades, turn paths, sight distance requirements, aisle widths and parking bay dimensions shall be designed in accordance with AS2890.1-2004 and AS2890.2-2002;
- d) A loading dock shall be provided within the site for deliveries to the retail/commercial component of the development. Any reference to the location of the loading dock being subject to future DA shall be removed from the plans;
- e) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, must be in accordance with AUSTROADS;
- f) The required sight lines to pedestrians and other vehicles in and around the proposed new road and entries and exists for the basement car park shall not be compromised by landscaping or other vegetation; and
- g) All works including regulatory signposting associated with the proposed development are to be at no cost to the RTA.

Full details of compliance with the above requirements shall be submitted to and accepted by Council before the issue of a Construction Certificate.

Reason: To comply with the requirements of the Sydney Regional Development and Advisory Committee.

68. Detailed plans of the proposed Bus Stop to be located within development site at the Parramatta Road frontage being submitted to and approved by Council before the issue of a

Construction Certificate. A restriction on the use of the land for this purpose shall be created and noted on the title before the issue of a Construction Certificate and at no cost to Council.
Reason: To ensure the waiting facilities for bus passengers is provided on the site.

69. The following additional information being submitted to Council for assessment before the issue of a Construction Certificate relating to the SIDRA analysis:

- a) All raw intersection count data including any scatts data;
- b) Clarification on how the cycle times were derived for the signalised intersection; and
- c) Further review of all the SIDRA analysis results.

Reason: To confirm the SIDRA analysis results.

70. Detailed plans of the proposed Bus Stop to be located within development site at the Parramatta Road frontage being submitted to and approved by Council before the issue of a Construction Certificate. A restriction on the use of the land for this purpose shall be created and noted on the title before the issue of a Construction Certificate and at no cost to Council.
Reason: To ensure the waiting facilities for bus passengers is provided on the site.

71. In order to provide satisfactory vehicular and pedestrian access and drainage adjacent to the site, the following road and footpath works shall be carried out in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#1-"Development Specifications", at no cost to Council prior to the occupation of the building. The works shall include the following:

- a) Provision of a new asphalt surface 40mm thick in Denison Street for the full frontage of the site. This shall include heavy patching of the existing road pavement where necessary;
- b) A drainage line designed for a 1 in 10 year storm event extending from the New Street and connecting to Sydney Water's drainage pipe in Denison Street generally in accordance with Plan No. 08S162-DAC01 by Hughes Trueman. The drainage line shall be generally located under the existing kerb & gutter in Denison Street with connection with connections from the site to this pipe being via 2.4m extended kerb inlet pits located within the kerb & gutter;
- c) Construction of thresholds both ends of the New Road (within the site) at its intersection with both Denison Street and Australia Street;
- d) Reconstruction of the existing footpaths for the full frontage of the site in Denison Street, Australia Street and Parramatta Road in suitable decorative materials and to a detail to be approved by Council;
- e) A pedestrian refuge island shall be provided in Australia Street, at its intersections with Parramatta Road;
- f) The existing marked foot crossing in Australia Street, north of Derby Street shall be upgraded to a raised crossing;
- g) Tree planting for the full frontages of the site generally as outlined in the submitted landscape plan. Trees shall be 200L advanced specimens with suitable decorative tree guards to an approved detail. The trees shall be planted centrally in a bed approximately 1.5m in width x 3m in length. The beds shall be planted out to an approved detail. It is suggested that the specimen, location and spacing of the trees be further discussed with Council's Manager of Parks Mr Richard Sage prior to submission of plans;
- h) The removal of all redundant vehicular crossings to the site of the proposed development and replacement with kerb, gutter and footpath paving;
- i) The repair and/or construction of any existing damaged or otherwise defective kerb, gutter, footpath and road pavement adjacent to the site of the development; and
- j) All adjustments to public utilities required by these works including additional lighting and stormwater.

Full detailed construction plans and specifications shall be submitted to and accepted by Council before the issue of a Construction Certificate. No road and drainage works shall commence until approved plans and specifications are issued for construction by the Director, Technical Services.

Reason: To provide means of public road vehicle and pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.

72. Payment of a Bond, in the sum of \$290,000 for the proper performance of Road/Drainage works before the issue of a Construction Certificate. The security may be provided in one of the following methods:

- a) in full in the form of a cash bond; or
- b) by provision of a Bank Guarantee by an Australian Bank in the following terms:
 - (i) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing.
 - (ii) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent;
 - (iii) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Reason: To ensure all Road/Drainage works are completed within a reasonable time.

73. Full detailed construction plans and specification for the New Road including long-sections along the kerb lines and centreline, cross-sections at 10m intervals, stormwater drainage and details of public utility services being submitted for the approval of the Director, Technical Services before the issue of a Construction Certificate.

Reason: To provide satisfactory vehicular access and drainage to the area.

74. A public right-of-way being created for the full length and width of the New Road including the footpaths before the issue of a Construction Certificate.

Reason: To provide legal public vehicular and pedestrian access to a Private Road.

75. Splay corners being created at property corners, and dedicated to the public for road widening before the issue of a Construction Certificate. The size of the splays shall be a minimum of 3m x 3m.

Reason: To provide for sight-distance for vehicles at intersections.

76. Power supply to the development being by means of underground cables. The person acting on this consent shall investigate the provision of new decorative street lighting columns and luminaires to Council's and Energy Australia's requirements with underground supply to the Parramatta Road frontage. This is to include the pole on the north eastern corner of Denison Street and Parramatta Road. The two existing light poles on the western side of Australia Street are to be replaced with decorative lighting columns and luminaires to Council's and Energy Australia's requirements. The street lighting along the full frontages of the site and within the New Road shall be designed in accordance with Australian Standard AS1158- Road Lighting and the Network Standards of Energy Australia. Full details and specifications (approved by Energy Australia) shall be submitted to the Director Technical Services before the issue of a Construction Certificate.

Reason: To ensure that the amenity of the area is in keeping with the standard of the development.

77. A linen plan of survey detailing any easements, splay corners and rights-of-way together with associated documents being lodged with the Land and Property Information Office at no cost

to Council. A dealing number for registration of the easement being obtained from the Land Property Information Office before issue of a Construction Certificate.

Reason: To ensure compliance with conditions affecting the site title.

SITE WORKS

78. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00 am to 5.30 pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer being responsible to ensure that all contractors associated with the development are fully aware of these requirements.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

79. Notwithstanding the above condition, all remediation works being restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday.

Reason: To ensure that the remediation works are only carried out during the hours of operation permitted under Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls.

80. The disposal of contaminated soil being carried out in accordance with the requirements of the New South Wales Environment Protection Authority.

Reason: To provide for correct disposal of wastes.

81. Written evidence of compliance with the results of the Archaeological Assessment (including testing and excavation) and compliance with the conditions of the approved Excavation Permit from the NSW Heritage Council being submitted to the satisfaction of Council's Heritage and Urban Design Advisor.

Reason: To ensure the management of all known and potential archaeological relics in accordance with the requirements of the NSW Heritage Act 1977.

82. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

83. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and shall comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'. Enquiries are to be made with Council's Technical Services Division.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

84. All demolition work being carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety

of the site personnel, protection of adjoining buildings and protection of the immediate environment;

- b) all works involving the demolition, removal, transport and disposal of asbestos cement is to be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment and Climate Change;
- c) all building materials arising from the demolition are to be disposed of in an approved manner in accordance with Marrickville Development Control Plan No. 27 - Waste Management and any applicable requirements of the Department of Environment and Climate Change;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications are to be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, only having access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site being deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent is responsible for ensuring that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

85. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection (d) can only be carried out by the PCA. The critical stage inspections are:

- a) After excavation for, and before the placement of, any footings.
- b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
- c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the Building Code of Australia.

86. As the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense;

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and

- c) at least seven (7) days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

87. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

88. A certificate of survey from a registered land surveyor shall be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

89. The swimming pool backwash / pump-out system must be connected to Sydney Water's drainage system in accordance with the requirements of Sydney Water.

Reason: To ensure that the waste water will be properly disposed of.

90. The swimming pool is to be fully enclosed with child-proof fencing, complying with the Swimming Pools Act 1992 and Swimming Pools Regulation 2008. No water must be placed in the swimming pool until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the Principal Certifying Authority.

Reason: To ensure the swimming pool is adequately fenced.

91. The swimming pool being fully enclosed and the fencing and access gates to the swimming pool area being maintained in good repair at all times.

Reason: To maintain a physical barrier from the remainder of the premises and any place (whether public or private) adjacent to or adjoining the premises.

92. The swimming pool/spa pump and associated equipment must be provided with a ventilated sound-proofed enclosure and/or be isolated so that the noise emitted from it does not exceed 3dB(A) above the background level.

Reason: To prevent a noise nuisance occurring.

93. A warning notice containing the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" together with an expired air resuscitation warning notice complying with Section 17 of the Swimming Pools Act, 1992 must be affixed and maintained in a prominent position adjacent to the swimming pool.

Reason: To ensure the required notices are provided in the vicinity of the swimming pool.

94. All roof and surface stormwater from the site and any catchment external to the site that presently drains to it shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and

On Site Detention Code. The maximum discharge allowable to Council's street gutter is 25 litres/second.

Reason: To provide for adequate site drainage.

95. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3.2-1998 'Stormwater Drainage-Acceptable Solutions' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the ten (10) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To provide for adequate site drainage.

96. New or replacement taps being AAA rated as defined by the Australian Standard AS/NZ 6400 2005: Water efficient products - Rating and labelling.

Reason: To conserve water.

97. New or replacement toilet(s) being dual flush as defined by the Australian Standard AS/NZ 6400 2005: Water efficient products - Rating and labelling.

Reason: To conserve water.

98. New or replacement urinals being AAA rated.

Reason: To conserve water.

BEFORE OCCUPATION OF THE BUILDING

99. You shall obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA shall notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within two (2) days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

100. Occupation of the building shall not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

101. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, shall:
- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of the New South Wales Fire Brigades and the Council; and
 - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner shall obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate shall be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

102. Upon the completion of any remediation works stated in the RAP the person acting on this consent shall submit to Council a Validation and Monitoring Report. The report is to be conducted in accordance with the NSW Environment Protection Authority's *"Guidelines for Consultants Reporting on Contaminated Sites 1998"*.

Reason: To ensure that the remediated site complies with the objectives of the RAP.

103. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained before the issue of an Occupation Certificate.

Reason: To comply with the requirements of that Act.

104. A design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development being submitted to Council's satisfaction before the issue of an Occupation Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

105. The landscaping of the site being carried out prior to occupation or use of the premises in accordance with the approved plan, and being maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

106. The Interpretation Plan referred to in Part A of this Determination being implemented to the satisfaction of the Council's Heritage and Urban Design Advisor before the issue of an Occupation Certificate.

Reason: To ensure that the approved Interpretation Plan is implemented.

107. Compliance with the requirements of Marrickville Development Control Plan No. 32 - Energy Smart Water Wise is to be demonstrated via completion of Council's Green checklist, which is to be completed by the Principal Certifying Authority (PCA) before the issue of an Occupation Certificate. If completed by a Private PCA, a copy of the completed checklist must be forwarded to Council for its records.

Reason: To appropriately monitor the installation of energy and water conservation fixtures and appliances.

108. (i) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination and prior to the occupation of the dwellings a report being prepared and submitted to Council's satisfaction by an accredited Acoustics Consultant certifying that the final construction

meets AS2021-2000 and State Environmental Planning Policy (Infrastructure) 2007 as set down in the subject conditions of this consent. Such report shall include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and

- (ii) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures shall be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part (i) of this condition.

Reason: To reduce noise levels within the proposed dwellings from aircraft and vehicular traffic and to ensure that the proposed noise attenuation measures incorporated into the dwellings satisfactorily comply with the relevant sections of Australian Standard 2021-2000 and State Environmental Planning Policy (Infrastructure) 2007.

109. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).

Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.

110. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.

Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.

111. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before occupation of the site.

Reason: To ensure there is no encroachment onto Council's road.

112. The existing stone kerb adjacent to the site is an item of heritage significance and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before occupation of the site and at no cost to Council.

Reason: To ensure that items of heritage significance are preserved.

113. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before occupation of the site. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure the person acting on this consent completes all required work.

114. With the regard to the On Site Detention System (OSD), a Positive Covenant in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code shall be placed on the Title in favour of Council before occupation of the site.

Reason: To ensure that the integrity of the OSD system is maintained and to comply with Marrickville Council Stormwater and On Site Detention Code.

115. All instruments under Section 88B of the Conveyancy Act used to create easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.

Reason: To ensure Council's interests are protected.

116. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before occupation of the site and at no cost to Council.
Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.
117. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before occupation of the site and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.
Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.
118. Before occupation of the site written verification from a suitably qualified professional civil engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
Reason: To ensure drainage works are constructed in accordance with approved plans.
119. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard crossing and footpath specifications, AUS-SPEC#2-"Roadworks Specifications" and Council's Stormwater and On Site Detention Code. The works shall be certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the above requirements before occupation of the site. In addition, full works-as-executed plans in both PDF and CAD format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council upon completion of the works.
Reason: To ensure that works are carried out to a proper standard.
120. "Under awning" lighting, to match the existing whiteway lighting scheme in the Parramatta Road area shall be installed before the occupation of the site and at no cost to Council. All works required to install and connect the system (including the need to install a "special small service") shall be at no cost to Council.
Reason: To ensure adequate lighting is provided for pedestrians adjacent to the site/
121. The person acting on this consent shall, within fourteen (14) days of notification of the Director, Technical Services, execute any and all maintenance works required by the Director, Technical Services. In the event that the applicant fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security and Council may recover any costs in excess of the security from the person acting on the consent.
Reason: To ensure all drainage works are maintained within a reasonable time limit during a 12 month maintenance period.
122. The person acting on this consent shall provide security, in a manner satisfactory to the Director Technical Services, for the proper maintenance of the road/drainage works in an amount of \$30,000 for a period of twelve (12) months from the date of completion of the Road/Drainage works as surety for the proper maintenance of the Road/Drainage works.
Reason: To provide security for the maintenance of Road/Drainage works for a 12 month maintenance period.
123. The proposed loading zones in both Australia and Denison Streets shall be subject to a separate application to and approval of the Local Traffic Planning and Advisory Committee.

Reason: To ensure approval is obtained from the Local Traffic Planning and Advisory Committee.

124. Prior to occupation of the site the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

Reason: To ensure that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily.

ADVISORY NOTES

- (i) The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- (ii) A complete assessment of the application under the provisions of the Building Code of Australia has not been carried out.
- (iii) The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- (iv) Contact "Dial Before You Dig" before commencing any building activity on the site.
- (v) Useful Contacts

BASIX Information

☎ 1300 650 908 weekdays 2:00pm - 5:00pm
www.basix.nsw.gov.au

Department of Environment
and Climate Change

☎ 9995 5000
www.environment.nsw.gov.au

Department of Fair Trading

☎ 13 32 20
www.fairtrading.nsw.gov.au
Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Before You Dig

☎ 1100
www.dialbeforeyoudig.com.au

Landcom

☎ 9841 8660
To purchase copies of Volume One of "Soils and Construction"

Long Service Payments Corporation

☎ 131441
<http://lspc.nsw.gov.au>

Marrickville Council

☎ 9335 2222
www.marrickville.nsw.gov.au
Copies of all Council documents and application forms can be found on the web site.

NSW Food Authority

☎ 1300 552 406

	www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service NSW - Environmental Solutions	www.wasteservice.nsw.gov.au
WorkCover Authority of NSW	☎ 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the Council's determination of the application.
- C. THAT** the Roads and Traffic Authority be forwarded a copy of the Council's determination of the application.