

<b>JRPP No.</b>	<b>2009SYE018</b>
<b>DA No.</b>	<b>DA200900410</b>
<b>Proposed Development</b>	<b>52-60 Enmore Road, Newtown - Newtown RSL redevelopment</b>
<b>Applicant:</b>	<b>Gordon King</b>
<b>Report By:</b>	<b>Ali Hammoud (Marrickville Council)</b>

## **Assessment Report and Recommendation**

### **Synopsis**

A report on a Development Application to demolish the existing improvements, consolidate the land and erect a five (5) storey mixed use building containing a new club premises, café, shop and accommodation hotel comprising sixty six (66) rooms over a basement level with off street car parking for seventeen (17) vehicles was considered by the Sydney East Region Joint Regional Planning Panel at its meeting on 17 February 2010.

At that meeting, the Panel resolved, in part, to defer the determination of the application and request the applicant and Council's planner to calculate an agreed FSR of the proposal that complies with the definition of GFA in the LEP and request the Council planner to prepare a set of suitable conditions that could be attached to a consent (for the development as amended) for consideration by the Panel.

The applicant submitted plans outlining their calculation of the FSR of the proposal on 2 March 2010 which indicates that the proposal has a FSR of 3.21:1 comprising a GFA of 2,781.6sqm. Council's Assessing Officer conducted his own assessment and calculation of the FSR and GFA of the proposal and concurs with the GFA and FSR advised by the applicant.

The proposed development, as amended, involves a significant departure from the maximum floor space ratio standard of 2:1 applying to the development located on land zoned Business General under Marrickville Local Environmental Plan 2001. The applicant lodged an objection under State Environmental Planning Policy No. 1 - Development Standards (SEPP 1) with the original application in relation to the departure from the subject development standard. The Panel will need to determine whether the applicant's SEPP 1 objection is well founded and provide justification for agreeing to such variation. In the event that the Panel does not consider the applicant's SEPP 1 objection well founded, the development application has to be refused.

### **1. Background**

A report on a Development Application to demolish the existing improvements, consolidate the land and erect a five (5) storey mixed use building containing a new club premises, café, shop and accommodation hotel comprising sixty six (66) rooms over a basement level with off street car parking for seventeen (17) vehicles was considered by the Sydney East Region Joint Regional Planning Panel at its meeting on 17 February 2010.

At that meeting, the Panel resolved to:

- 1) Defer the determination of the application;
- 2) Request the applicant and Council's planner to calculate an agreed FSR of the proposal, that complies with the definition of GFA in the LEP;
- 3) If the agreed FSR is different in the assessment report and the Council planner wishes to revise any part of his report, he is requested to do so;

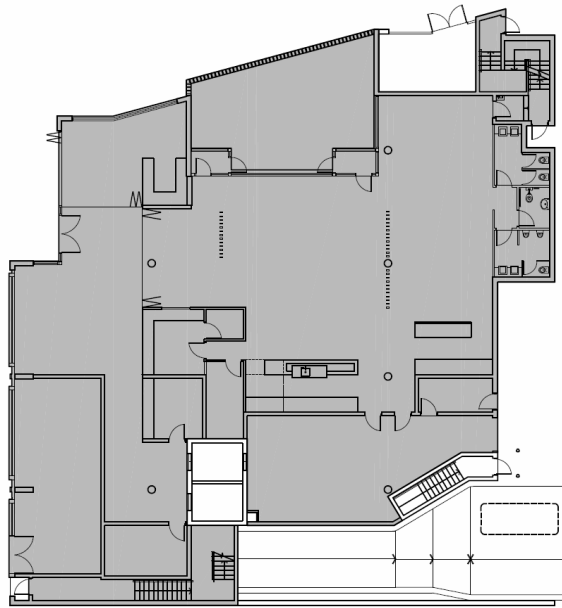
- 4) Request the Council planner to prepare a set of suitable conditions that could be attached to a consent;
- 5) The panel will reconsider the application at a meeting at a future date to be determined.

## 2. Floor Space Ratio and Gross Floor Area Calculations

The applicant submitted plans outlining their calculation of the floor space ratio (FSR) of the proposal on 2 March 2010 which indicates that the proposal has a FSR of 3.21:1 comprising a gross floor area (GFA) of 2,781.6sqm. Council's Assessing Officer conducted his own assessment and calculation of the FSR and GFA of the proposal and agrees with the GFA and FSR advised by the applicant. A copy of the applicant's submission is reproduced as images 1 to 6 below:

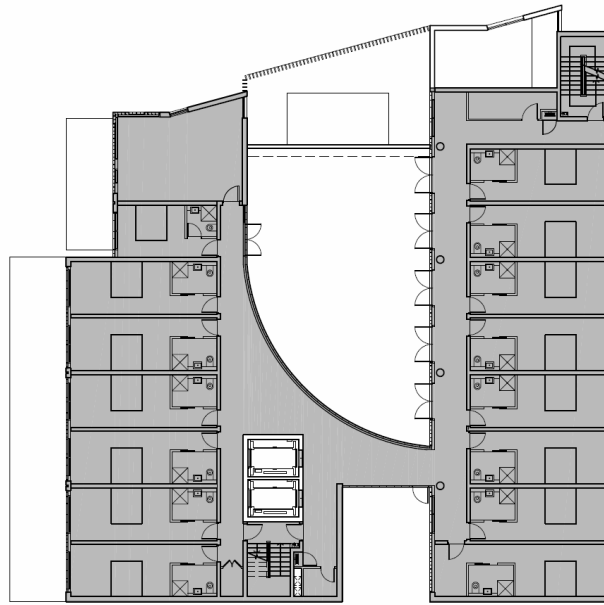
2009033 @ NEWTOWN RSL MARRICKVILLE COUNCIL FSR CALCULATIONS	
<b>MARRICKVILLE COUNCIL LEP 2001 - REV B</b>	
<b>PROPOSED FSR</b>	
<b>LEVEL</b>	<b>GFA (m2)</b>
Basement	0
Ground Floor	656.1
Level 1	565
Level 2	589.3
Level 3	543
Level 4	428.2
Level 5	0
<b>TOTAL GFA</b>	<b>2781.6</b>
<b>SITE AREA</b>	866.4
<b>PROPOSED FSR</b>	<b>3.21:1</b>
<b>Note:</b> GFA as defined by Marrickville LEP 2001 Measured to outer face of wall Excludes lift towers Excludes plant rooms Excludes carparking Excludes ventilation ducts Excludes substation Excludes voids above floor level Includes stairs Includes outdoor gaming (outdoor area with wall above 1.4m)	

*Image 1: GFA and FSR Calculations*



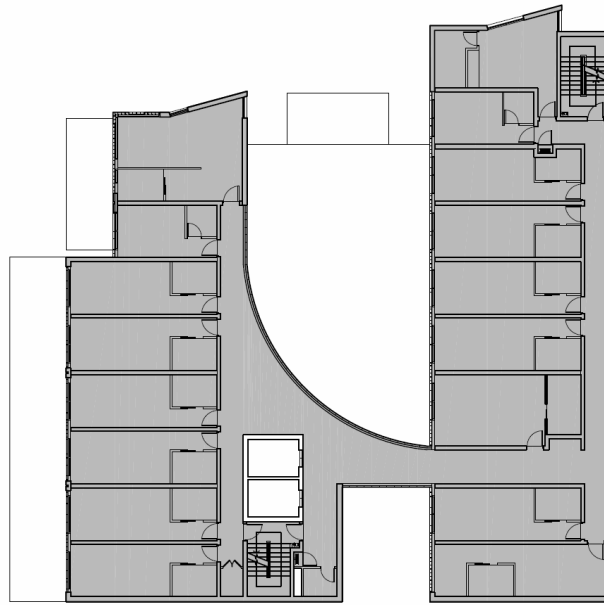
**GROUND FLOOR GFA = 656.1m<sup>2</sup>  
MARRICKVILLE COUNCIL LEP 2001**

*Image 2: Outline of Ground Floor GFA*



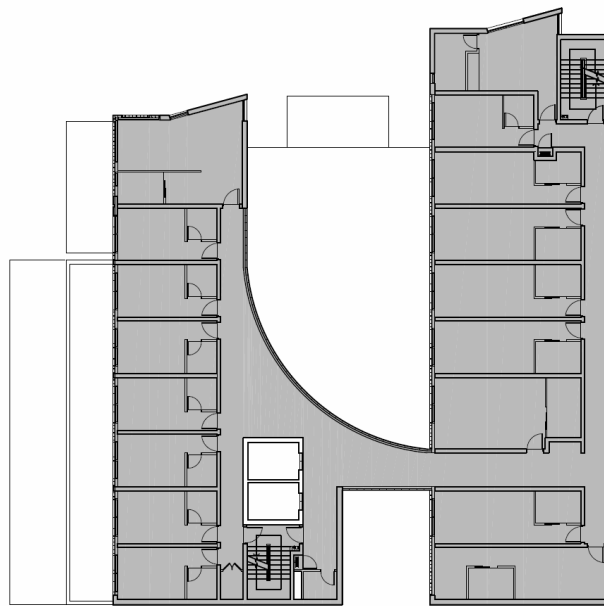
LEVEL 1 GFA = 565m<sup>2</sup>  
MARRICKVILLE COUNCIL LEP 2001

*Image 3: Outline of Level 1 GFA*



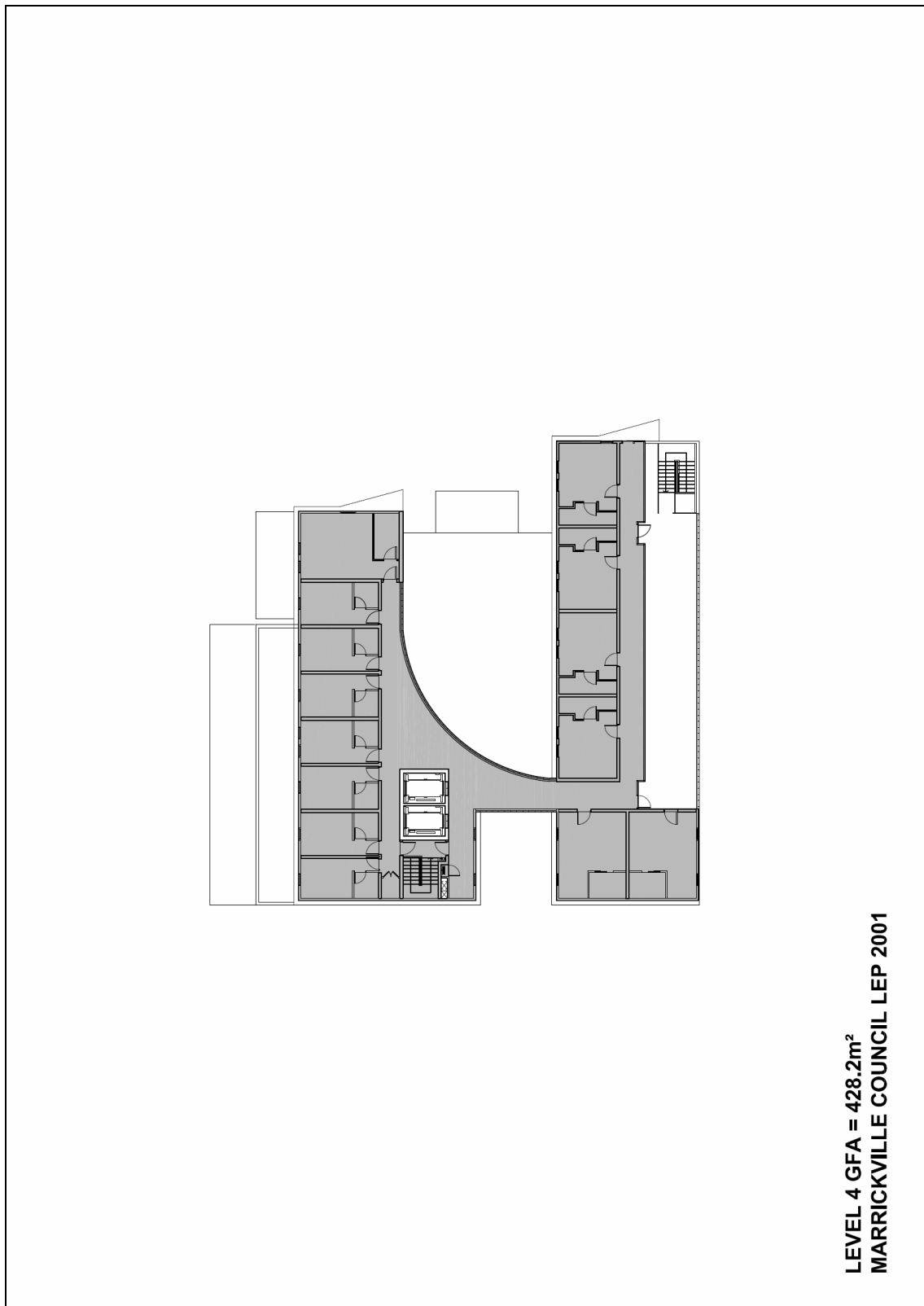
LEVEL 2 GFA = 589.3m<sup>2</sup>  
MARRICKVILLE COUNCIL LEP 2001

*Image 4: Outline of Level 2 GFA*



LEVEL 3 GFA = 543m<sup>2</sup>  
MARRICKVILLE COUNCIL LEP 2001

*Image 5: Outline of Level 3 GFA*



*Image 6: Outline of Level 4 GFA*

### 3. Outstanding Issues

As part of the assessment of the original application, the following issues were identified with the design of the proposal, particular to the internal layout of the ground floor of the development:

- a) The proposed café and retail shop are not provided with direct internal access to the loading bay at the rear of the property running parallel to Reiby Lane;

- b) Access to the abovementioned loading bay is impeded by the placement of bollards for a fire exit located at the rear of the building within the loading space;
- c) A small delivery vehicle loading space is not provided within the basement level of the building; and
- d) Insufficient sanitary facilities are provided for the café, retail shop and hotel employees.

The amended plans submitted for the proposal do not address those matters and therefore the issues remain outstanding. If the Panel decides to grant consent to the proposal, it is recommended that a deferred commencement consent be issued with deferred commencement conditions being imposed on such consent to ensure that the above matters are addressed before any consent granted is made operative.

#### **4. Reasons for Refusal**

In relation to part 3) of the Panel's resolution requesting the Council planner to revise any part of his report if he wishes to do so. It is considered that the substantial issues identified in the original assessment remain outstanding and are not resolved in the amended proposal. The FSR calculation agreed to by the applicant and Council's Assessing Officer would require reason 1 for refusal of the application to be amended to reflect the agreed FSR value. Although amended plans were submitted for the proposal, the amendments only resolve one of the eleven issues originally identified to refuse the application relating to overshadowing and solar access.

Accordingly, Council's Assessing Officer is still of the view that the application, as amended, should be refused for the following reasons:

1. The proposed development has a floor space ratio of 3.21:1 which is well in excess of the maximum 2:1 floor space ratio permitted in the General Business zone under Clause 33 of Marrickville Local Environmental Plan 2001.
2. The floor space ratio of the proposed development does not comply with the objectives for the floor space ratio control prescribed by Marrickville Development Control Plan No. 28 - Urban Design Guidelines for Business Centres and Marrickville Development Control Plan No. 34 - King Street and Enmore Road Heritage and Urban Design.
3. The proposed development includes a building height of 16.2m (to the roof line) above street level comprising five (5) storeys which is greater than the height of the existing building on the site. Consequently, the proposed development is inconsistent with the building height objectives and controls contained in Marrickville Development Control Plan No. 34 - King Street and Enmore Road Heritage and Urban Design. The proposed development would further exacerbate the inconsistent height relationship between the subject site and adjoining buildings along the streetscape.
4. The proposed development fails to adequately respond to the corner site objectives and controls contained in Marrickville Development Control Plan No. 34 - King Street and Enmore Road Heritage and Urban Design in relation to the design and appearance of the proposed building.
5. The proposed roof form is inconsistent with the roof forms prevalent along this section of Enmore Road and includes a number of dormer windows within the roof along the Enmore Road and Station Street frontages. Consequently, the proposed roof form is inconsistent with the roof and parapet objectives and controls contained in Marrickville Development Control Plan No. 34 - King Street and Enmore Road Heritage and Urban Design.
6. The proposed outdoor gaming room would cause additional acoustic privacy impacts on those properties located opposite the subject site along Station Street.
7. Some of the design elements of the proposed building would hinder the ability for delivery vehicles to practically use the proposed loading space at the rear of the site without having to utilise parts of the adjacent laneway. Consequently, the proposed development fails to



comply with the delivery and service area objectives and controls contained in Marrickville Development Control Plan No. 19 - Parking Strategy.

8. The proposed waste/recycling storage areas are not located in a conveniently accessible location and consequently fail to comply with the provisions of Marrickville Development Control Plan No. 27 - Waste Management.
9. The proposed development does not provide an adequate number of sanitary facilities in suitable locations for patrons and employees of the proposed club premises, retail shops or the hotel.
10. In view of the above and given the number of submissions received against the proposal, approval of the application would not be in the public interest.

## 5. Suggested Terms and Conditions for Consent and other Procedural Matters

The proposed development (as amended) involves a significant departure from the maximum FSR standard of 2:1 applying to the development located on land zoned Business General under Marrickville Local Environmental Plan 2001 (MLEP 2001). The applicant lodged an objection under State Environmental Planning Policy No. 1 - Development Standards (SEPP 1) with the original application in relation to the departure from the subject development standard.

Under Clause 33 of MLEP 2001 a FSR development standard of 2:1 applies to the proposed development. The amended development has a FSR of 3.21:1 which is well in excess of the maximum FSR of 2:1 permitted for development on land zoned General Business under Clause 33 of MLEP 2001. The extent of the variation from the subject development standard equates to a 60.5% variation.

The Panel would need to determine whether the applicant's SEPP 1 objection is well founded and provide justification for agreeing to such variation. In the event that the Panel does not consider the applicant's SEPP 1 objection well founded the development application has to be refused.

The Department of Planning has prepared a template for reporting SEPP 1 variations to the Department. To assist the Panel, the majority of that template has been completed for the subject proposal with the exception of the matters relating to "Justification of Variation" and "Date of Determination". If the Panel considers the applicant's SEPP 1 objection well founded, it would need to provide its justification for the variation from the subject development standard.

A specific resolution should be made in relation to the wording for the justification. In this regard a resolution to the following effect is suggested:

- (i) **"THAT** the Panel considers the applicant's objection under State Environmental Planning Policy No. 1 - Development Standards to Clause 33 of Marrickville Local Environmental Plan 2001 well founded for the following reasons:

**\*\*\*Reasons to be provided by the Panel\*\*\***

- (ii) **THAT** the Department of Planning be advised, as part of the quarterly review of the monitoring of State Environmental Planning Policy No. 1 - Development Standards, that the Panel has agreed to the variation of the floor space ratio development standard, as follows:

Premises:

52-60 Enmore Road, Newtown

Applicant:

Gordon King

Proposal:

To demolish the existing improvements, consolidate the land and erect a five (5) storey mixed use building containing a new club premises, café, shop and accommodation hotel comprising sixty six (66) rooms over a basement level with off street car parking for seventeen (17) vehicles.

<u>Determination:</u>	Consent subject to conditions
<u>DA No:</u>	200900410
<u>Lot and DP:</u>	Lot A DP 333296 & Lot 1 DP 784868
<u>Category of Development:</u>	Mixed
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2001
<u>Zoning of Land:</u>	General Business
<u>Development Standard varied:</u>	Clause 33 - maximum floor space ratio for development on land zoned General Business
<u>Justification of variation:</u>	***To be provided by Panel***
<u>Extent of variation:</u>	60.5%
<u>Concurring Authority:</u>	Sydney East Regional Joint Regional Planning Panel under assumed concurrence of the Director General of the Department of Planning
<u>Date of Determination:</u>	*****

In the event that the Panel considers the applicant's SEPP 1 objection well founded, a set of suitable conditions, as set out below, have been prepared that could be attached to a consent for the amended proposal in accordance with part 4) of the Panel's resolution:

**THAT** the development application to demolish the existing improvements, consolidate the land and erect a five (5) storey mixed use building containing a new club premises, café, shop and accommodation hotel comprising sixty three (63) rooms over a basement level with off street car parking for seventeen (17) vehicles 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:

- Amended plans being submitted to the satisfaction of Marrickville Council providing direct internal access to a loading and unloading bay within the development for the café and retail shop with access to such bay not relying on access being provided through the club premises and direct internal access from the retail shop to the foyer of the building.  
Reason: To ensure that the layout of the ground floor of the development is practical and provides direct internal access to a loading and unloading bay for the café and retail shop without relying on access to such space through the club premises.
- Amended plans being submitted to the satisfaction of Marrickville Council deleting the bollards placed within the loading bay provided at the rear of the building with any subsequent changes required to the rear fire exit.  
Reason: To ensure that delivery vehicles are able to use the loading bay without interfering with the safe operation of the laneway.
- Amended plans being submitted to the satisfaction of Marrickville Council providing an additional small delivery vehicle loading bay within the basement level of the building.  
Reason: To ensure that an adequate number of loading and unloading spaces are provided for the development.
- Amended plans being submitted to the satisfaction of Marrickville Council providing a separate waste/recycling storage room for the club premises and a waste/recycling storage room for the café and retail shop. The café and retail shop being provided with direct internal access to such waste/recycling storage room with access to such room not relying on access being provided through the club premises.  
Reason: To ensure that an adequate number of waste/recycling storage rooms are provided for the development without relying on access to such room through the club premises.

5. Amended plans being submitted to the satisfaction of Marrickville Council providing additional dedicated sanitary facilities for the hotel, café and retail shop or alternatively a shared sanitary facility for those aspects of the development. Access to such facilities not relying on access being provided through the club premises.

Reason: To ensure that an adequate number of sanitary facilities are provided for the development without relying on access to such facilities through the club premises.

Evidence of the above matters must be produced to the Council or its delegate within two years of 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:

<b>Plan, Job and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>	<b>Date Submitted</b>
DA02, Job 2009033, Issue A	Proposed Site Plan/Site Analysis	24/09/2009	Jackson Teece Architecture	16/10/2009
DA03, Job 2009033, Issue A	Basement Plan	24/09/2009	Jackson Teece Architecture	16/10/2009
DA04, Job 2009033, Issue A	Ground Floor Plan	24/09/2009	Jackson Teece Architecture	16/10/2009
DA05, Job 2009033, Issue A	Level 1 Plan	24/09/2009	Jackson Teece Architecture	16/10/2009
DA06, Job 2009033, Issue A	Level 2 Plan	24/09/2009	Jackson Teece Architecture	16/10/2009
DA07, Job 2009033, Issue A	Level 3 Plan	24/09/2009	Jackson Teece Architecture	16/10/2009
DA08, Job 2009033, Issue B	Level 4 Plan	20/01/2010	Jackson Teece Architecture	25/01/2010
DA09, Job 2009033, Issue B	Roof Plan	20/01/2010	Jackson Teece Architecture	25/01/2010
DA10, Job 2009033, Issue A	North Elevation	24/09/2009	Jackson Teece Architecture	16/10/2009
DA11, Job 2009033, Issue B	East Elevation	20/01/2010	Jackson Teece Architecture	25/01/2010
DA12, Job 2009033, Issue B	South Elevation	20/01/2010	Jackson Teece Architecture	25/01/2010
DA13, Job 2009033, Issue A	West Elevation	24/09/2009	Jackson Teece Architecture	16/10/2009
DA16, Job 2009033, Issue A	Section 01	24/09/2009	Jackson Teece Architecture	16/10/2009
DA25, Job 2009033, Issue A	Landscape Plan	24/09/2009	Jackson Teece Architecture	16/10/2009

and details submitted to Council on 16 October 2009, 6 November 2009, 1 December 2009, 25 January 2010 and 2 February 2010 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. The operation of the Club premises complying at all times with the approved Plan of Management. The Plan of Management as approved is not to be further amended without the prior written approval of Marrickville Council. If there are any inconsistencies between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of the inconsistencies.  
Reason: To ensure that the Club premises have an appropriate management plan in place.
3. The shop window display area being maintained at all times with no roller shutters being installed across the shopfront.  
Reason: To preserve the streetscape and character of the area.
4. The ground floor café use being restricted to not more than nineteen (19) customer seats without the prior approval of Council.  
Reason: To ensure that the number of customers on the café premises at any one time is not increased without a further review of the sanitary facilities available for the development.
5. Seventeen (17) off-street car parking space being provided, paved, line marked, signposted and maintained at all times for the development in accordance with the standards contained within Marrickville Development Control Plan No. 19 - Parking Strategy.  
Reason: To ensure practical off-street car parking is available for the use of the premises.
6. One (1) car parking space for persons with a disability, required as part of the total parking required under this Determination, being provided in the basement level and marked as a disabled car parking space.  
Reason: To ensure that disabled car parking spaces are provided and marked accordingly and that disabled persons are advised and directed to such parking.
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 four (4) adaptable hotel rooms being provided in accordance with Marrickville Development Control Plan No. 31 - Equity of Access and Mobility.  
Reason: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.
9. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.  
Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.
10. The use of the premises, including any plant and equipment, not giving rise to:
  - a) transmission of unacceptable vibration to any place of different occupancy;
  - b) 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).

**NB: 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.

11. 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 and Marrickville Development Control Plan No. 34 - King Street and Enmore Road Heritage and Urban Design.

12. No storage of goods or equipment external to any building on the site being permitted.

Reason: To ensure the premises are kept in a neat and tidy manner.

13. No signs or goods to be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.

Reason: To prevent the public footpath from being obstructed.

14. All loading and unloading in connection with the approved uses only being carried out from the dedicated loading bay situated at the rear of the building running parallel to Reiby Lane or from within the basement level of the building between the hours of 7.00am and 5.00pm Mondays to Sundays including Public Holidays. All loading and unloading activities being carried out in such a manner as not to cause inconvenience to the public.

Reason: To ensure loading and unloading operations do not interfere with traffic and pedestrian movements in the area.

15. All machinery being installed in accordance with the manufacturer's specifications and being maintained at all times if in use.

Reason: To ensure that such machines are properly installed and maintained so as to prevent noise generation, vibration and any other disturbances to adjoining premises.

16. The hours of operation of the Club premises being restricted to the following hours:

- a) The hours of operation of the Club premises being restricted to between the hours of 10.00am to 11.00pm Sundays to Thursdays and Public Holidays and between the hours of 10.00am to 12.00 midnight Fridays and Saturdays.
- b) For a period of not more than twelve (12) months from the date of issue of an Occupation Certificate for the development approved in this consent, the hours of operation of the Club premises being restricted to between the hours of 10.00am to 1.00am the following day Sundays to Thursdays and Public Holidays and between the hours of 10.00am to 2.00am the following day Fridays and Saturdays.
- c) The operation of the Club complying at all times with the Plan of Management dated October 2008 as amended by the conditions of consent included in this determination.
- d) The recorded Closed Circuit Television surveillance is to be commenced one hour before the opening of the Club in the morning until the last patron leaves the Club at night and is to monitor the main entrance and bar areas.
- e) A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act, 1979 by way of a fresh application.
- f) Marrickville Council may review this condition at any time and this reviewable condition may be changed on any such review. Pursuant to Section 80 (A) of the Environmental Planning and Assessment Act, 1979, Subsection 10 (D), a decision by Marrickville Council to review and consequentially change the subject condition on any such review, will be taken to be a determination of a development consent for the purposes of the Act.

Reason: To ensure that the extended hours of operation are reviewed and assessed in light of their performance and to ensure that the use does not interfere with the amenity of the locality.

17. The hours of operation of the Café and retail shop being restricted to between the hours of 7.00am to 11.00pm Mondays to Sundays including Public Holidays.

Reason: To confirm the hours of operation as requested and ensure that the operation of the premises does not interfere with the amenity of the locality.

18. It may be necessary for the installation of a suitable electrical sub-station for the distribution of electrical power in this area to be located on the land, the subject of this application, and that an area of land suitable for the Energy Australia to provide such an installation be set aside for this purpose. 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 respect to the possible need for such an installation immediately or in the future.

Reason: To provide for the existing and potential electrical power distribution for this development and for the area.

19. The developer liaising with the Sydney Water Corporation, 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.

20. All trade waste being stored within the site boundaries and contained in such a manner so as not to cause a nuisance.

Reason: To provide for correct storage of wastes.

21. All building work must 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 State's building code.

22. 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.

## **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.**

23. 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.

24. A Construction Certificate being 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.

25. 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.

26. 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, Climate Change and Water.

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

27. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Directorate 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.

28. 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.

29. A waste management plan being 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.

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

Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve, the person acting on this consent shall submit a hoarding application and pay all relevant fees 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 Infrastructure Services Directorate.

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

31. A rigid and durable sign being erected in a prominent position on the site, before work commences. The sign being 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.

32. A Soil and Water Management Plan being 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.

33. 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 on the adjoining property at 62 Enmore Road, Newtown 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.

34. Before work commences, a suitable hoarding or fence approved by Council must be erected between the work site and the public place. Enquiries for site fencing and hoardings in a public place including Council approval, can be made through Council's Infrastructure Services Directorate on 9335 2222.

Reason: To provide protection to the public place and comply with Clause 78G of the Environmental Planning and Assessment Regulation 1998.

35. All wastewater arising from the development being directed to the Sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The person acting on this consent is advised that pre treatment of wastewater may be a requirement of the corporation prior to the discharge to sewer. Details of the Corporation's requirements should be obtained before work commences.

Reason: To comply with the requirements of Sydney Water Corporation for the installation and maintenance of grease traps.

36. 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.

37. 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.



38. 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 etc. All construction traffic complying at all times with the approved Traffic Management Plan. The developer being responsible to ensure that all construction workers and contractors are fully aware of the approved Traffic Management Plan.  
Reason: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.
39. 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 work commences.  
Reason: To ensure the existing condition of Council's infrastructure is clearly documented.
40. Alignment levels for the site at all pedestrian and vehicular access locations shall be obtained from Council's Director, Infrastructure Services before work commences. 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 A CONSTRUCTION CERTIFICATE**

**For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.**

41. 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](http://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 the Construction Certificate.

Reason: To comply with the requirements of that Act.

42. The separate lots comprising the development (Lot A in Deposited Plan 333296 and Lot 1 in Deposited Plan 784868) being consolidated into one lot and under one title and registered at the NSW Department of Lands before the issue of a Construction Certificate.  
Reason: To prevent future dealing in separately titled land, the subject of one consolidated site development.

43. Lot 1 in Deposited Plan 1124143, relating to the balcony over the footpath in Enmore Road adjacent to the premises, being extinguished before the issue of a Construction Certificate with all associated costs being borne by the person acting on this consent. Compliance with this condition is not required if the person acting on this consent provides written advice from the NSW Department of Lands to Marrickville Council to the effect that it is not necessary for the subject lot to be extinguished.  
Reason: To ensure that the separate Lot covering the balcony over the footpath in Enmore Road is extinguished.

44. Bicycle storage with the capacity to accommodate a minimum of twenty (20) 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.

45. Details of all finished surface materials, including colour and texture to be used in construction being submitted to Council's satisfaction before the issue of the Construction Certificate. In this regard, additional detailing and/or variation in colour and/or texture shall be incorporated into the visible western end elevation of the building to break up the elevation and to lessen the visual impact of the subject elevation.

Reason: To ensure that finished surface details are in keeping with the character of the area.

46. Details of an anti graffiti treatment to the Station Street and Reiby Lane elevations of the development being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure the elevations of the building remain free of graffiti.

47. Evidence of payment of the building and construction industry Long Service Leave Scheme, shall be submitted to and accepted by the Certifying Authority before the issue of a Construction Certificate. The required payment of \$36,750 can be made at the Council Offices. This fee has been based on an estimated cost of works of \$10,500,000.

**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.

48. Before the issue of a Construction Certificate an amended plan shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) indicating the premises being fitted-out to ensure that the premises comply with the AS4674-2004 "Construction and fit out of Food Premises", Food Act 1989 and the Food Regulation 2001. To comply with the intent of these provisions the premises may incorporate the following features in the food preparation and storage areas:

- a) All service pipes, condensate pipes and electrical conduits must be sealed into the walls, floor or plinths;
- b) The doors of the airlock and sanitary compartments must be made close-fitting and self closing;
- c) All joints formed by the butting together of fittings must be sealed in such a manner as to eliminate any cavity or crevice or alternatively, a clear space of at least 75mm is to be provided between fittings;
- d) All glass used in the construction of counters, cupboards and food displays is to be of safety glass;
- e) The construction and method of installation of all fixtures, fittings and equipment together with the floor, wall and ceiling finishes must be able to be effectively cleaned, unable to absorb grease, food particles or water and be unable to provide harbourage for pests i.e. smooth faced, impervious material free from cracks, crevices and open joints;

- f) All walls in the food preparation and kitchen area are to be of solid construction and tiled to a height of 2.0m with glazed ceramic tiles and the wall above the tiles must be cement rendered to the ceiling to provide a smooth even surface, flush finished with the tile surface. The rendered walls must be painted with a light coloured washable paint;
- g) All intersections of the floor with walls and plinths in the food preparation area must be covered with an approved material to a minimum radius of 25mm installed so that there is no horizontal or vertical edge;
- h) Concrete plinths, 75mm in height and recessed 50mm to provide a toe space must be provided beneath refrigerators, benches and any other fitting not standing 200mm clear of the floor;
- i) The sinks, tubs and bench work must be flush finished to the wall;
- j) All refrigeration and freezer cabinets not sealed flush to the wall are to be kept a minimum of 200mm from walls or must be provided with wheels which allow the fully loaded fitting to be easily moved for cleaning purposes;
- k) All shelving is to be located at least 25mm off the wall or the intersection of the shelf and wall must be completely sealed;
- l) A wash hand basin supplied with hot and cold water through an approved mixing device must be provided and located in close proximity to the food preparation area;
- m) A liquid soap dispenser and paper towel dispenser must be provided above or adjacent to the wash handbasin; and
- n) Washing facilities must be provided and comply Food Standards Code.

Reason: To ensure that the premises comply with the relevant Acts and standards so as to promote sound hygiene and public health.

49. Before the issue of a Construction Certificate an amended plan shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) indicating the following:

- a) Access to the premises via the principal place of entry to the building to all ATM machines and to all areas normally occupied by the occupants, complying with AS 1428.1 "Design for access and mobility";
- b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
- c) The lift design complying with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement;
- d) Accessible counters complying with AS 1428.2 - 1992 'Design for access and mobility';
- e) All four (4) adaptable rooms indicated on the plan complying with AS 4299-1995 "Adaptable Housing";
- f) Any Automatic Teller Machines complying with AS 3769 and AS 1428.1; and
- g) A minimum of one (1) car parking space being provided for people with a disability in the basement level of the building that is directly accessible to the lifts. The car parking being designed to comply with AS 1428.1 - 2009 'Design for access and mobility - General requirements for access - buildings' and AS 2890.1 1 'Off-street carparking'.

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

50. An acoustic report for the proposed development, prepared by a suitably qualified acoustical engineer, is to be prepared indicating noise mitigation measures required to be incorporated into the design of the proposal to ameliorate the traffic noise and/or vehicle emissions within the site of the development arising from Enmore Road. Any noise attenuation measures recommended in such report being incorporated into the development in accordance with the 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.

Reason: To reduce noise levels within the proposed development from vehicular traffic and vehicle emissions.

51. 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.

52. In order to provide satisfactory vehicular and pedestrian access 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 before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate). The works shall include and not be limited to the following:

- a) The existing concrete footpath across the Station Street frontage of the site shall be reconstructed as per the existing paved footpath scheme in Enmore Road, Newtown. (Details of which may be obtained from Council);
- b) Provision of a new asphalt surface 40mm Mill and Fill for the full frontage of Reiby Lane including any areas beyond damaged during the course of construction. This shall include heavy patching of the existing road pavement where necessary;
- c) The construction of heavy duty concrete vehicular crossings at the proposed vehicular access locations;
- d) The removal of all redundant vehicular crossings to the site of the proposed development and replacement with kerb, gutter and footpath paving. Where the kerb in the vicinity of the redundant crossings is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone; and
- e) The repair and/or construction of any existing damaged or otherwise defective kerb, gutter, footpath, stormwater pits and road pavement adjacent to the site of the development.

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

53. Payment of a Bond, in the sum of \$29,000 before the issue of a Construction Certificate for the proper performance of road and footpath works and to ensure that all damage to Council's infrastructure resulting from proposed development is repaired in a timely fashion. 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; and
  - (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 works are completed within a reasonable time.

54. Plans detailing the existing and proposed site drainage network including plans and longitudinal sections of pipeline, the location of pits, pipe invert and pit surface levels,

junction details, size and class of pipes, trench conditions and details of surface flow paths together with hydrologic and hydraulic calculations that detail the drainage network and the capacities of the various surface flow regimes being submitted to and accepted by Council before the issue of a Construction Certificate. Where flows are in excess of 100 litres/second, then a hydraulic grade line analysis will be required.

Reason: To assess the adequacy of the proposed/existing site drainage.

55. Plans, details and calculations of a stormwater collection and re-use system shall be submitted to and accepted by Council before the issue of a Construction Certificate. The stormwater collection and re-use system must include the following elements:

- a) Details of a 1 in 100 year overflow in case of failure\blockage of the drainage system; and
- b) A strategy for pre-filtering and improving the Stormwater Quality of both the water to be discharged to Council's system and of the stormwater to be collected for re-use.

Reason: To ensure water and stormwater efficiency measures are implemented on the site as per Marrickville Development Control Plan No. 32 - Energy Smart Water Wise.

## **SITE WORKS**

56. All excavation, 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.

57. 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.

58. 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 Infrastructure Services Directorate.

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.

59. 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, Climate Change and Water;
- 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, Climate Change and Water;
  - 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.

60. 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.

61. If 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.

62. 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.

63. Satisfactory methods and/or devices being employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.

Reason: To prevent soil particles from being tracked and deposited onto the streets surrounding the site.

64. 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.

65. A clear unobstructed path of travel of not less than 1,000mm is to be provided to all exits and paths of travel to exits.

Reason: To provide safe egress in case of fire or other emergency.

66. The development, including footings, guttering and downpiping, must not encroach on the allotment boundaries and alignments to public places.

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

67. The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the erection, removal, alterations and additions to the boundary fences.

**NB: Where new boundary fences are to be erected onto adjoining properties or existing fences demolished/altered, where located on adjoining properties, the written consent of the adjoining owner/s should first be obtained.**

Reason: To ensure that the provisions of this Act are observed.

68. Adequate protection is to be provided between the proposed building and the adjoining building/s to prevent the penetration of water and dampness to the inner parts of both buildings.

Reason: To ensure healthy conditions are provided and maintained to habitable rooms.

69. The rainwater tanks must comply with the following:

- a) the tanks be installed to the manufacturer's specifications;
- b) openings are suitably sealed to prevent access by children and are fitted with a fine mesh to prevent penetration of contaminants and insects such as mosquitoes;
- c) an overflow device is fitted to the rainwater tanks which directs water to the stormwater drainage system; and
- d) a drainage plug is fitted and positioned in a manner that facilitates flushing and cleaning.

Reason: To ensure the safety and health requirements are complied.

70. Paths, patios, paved areas and the like and any areas of the allotment that have been regraded are to allow free draining away from the property and are not to direct the flow of surface waters into adjoining properties or against adjoining buildings.

Reason: To prevent damage to buildings and adjoining properties.

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

Reason: To conserve water.

72. 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.

73. All roof and surface stormwater from the site 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.

74. 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 twenty (20) 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.

## **BEFORE OCCUPATION OF THE BUILDING**

75. 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.

76. 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.

77. 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.

78. You are required under the Food Safety Standards to notify the Senior Food Surveillance & Inspection Officer, at the Central Sydney Public Health Unit of your intention to operate a food premises. You can do this on line at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au). Alternatively you can complete the relevant forms and Council will register the information for an administrative charge.

Reason: To ensure that the premises comply with the relevant Acts and standards.

79. Compliance with the requirements of Marrickville Development Control Plan No 32 - Energy Smart Water Wise is to be demonstrated via completion of the Council's Green Checklist, which is to be completed by the Council or the Principal Certifying Authority (PCA) before the issue of an Occupation Certificate. If completed by a 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.

- 80. (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 before the issue of an Occupation Certificate for the development (whether an interim or final Occupation Certificate), a report being prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets the requirements of State Environmental Planning Policy (Infrastructure) 2007 as set down in the subject condition 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 hotel rooms from vehicles using Enmore Road and to ensure that the proposed noise attenuation measures

incorporated into the development satisfactorily comply with the relevant sections of State Environmental Planning Policy (Infrastructure) 2007.

81. No 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 be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of an Occupation Certificate.  
Reason: To ensure there is no encroachment onto Council's road.
82. 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 the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".  
Reason: To ensure that the person acting on this consent completes all required work.
83. Before the issue of an Occupation Certificate, 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 (in electronic form), 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. Certification of the stormwater system shall also include water proofing certificates for the storage tanks.  
Reason: To ensure drainage works are constructed in accordance with approved plans.
84. The person acting on this consent shall provide security, in a manner satisfactory to the Director, Infrastructure Services of Marrickville Council, for the proper maintenance of the road/footpath works in an amount of \$4,000 for a period of twelve (12) months from the date of completion of the road/footpath works as surety for the proper maintenance of the road/footpath works.  
Reason: To provide security for the maintenance of road/footpath works for a 12 month maintenance period.
85. The person acting on this consent shall, within fourteen (14) days of notification of the Director, Infrastructure Services of Marrickville Council, execute any and all maintenance works required by the Director, Infrastructure 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 applicant.  
Reason: To ensure all drainage works are maintained within a reasonable time limit during a 12 month maintenance period.
86. "Under awning" lighting, to match the existing whiteway lighting scheme in the area shall be installed before the issue of an Occupation Certificate. 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
87. Before the issue of a final Occupation Certificate, the person acting on this consent shall obtain from Council a Certificate(s) of satisfactory completion stating that all Council 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 Council Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily.