

JRPP No: 2010SYE019

D/A No: 201000115

Application Date: 19 March 2010 (additional information submitted on 1 June 2010, 9 June 2010, 10 June 2010, 17 June 2010 and 29 June 2010).

Proposal: To demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms.

Applicant: Abadeen Marrickville Pty Ltd

Estimated Cost: \$36,000,000

Zoning: General Business and Special Uses - Railways

Development Assessment report:

Synopsis

Application to demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms. One hundred and fifteen (115) submissions and one petition, containing a total of 1,114 signatures were received in response to Council's notification of the proposal.

The proposed development exceeds the maximum floor space ratio development standard as prescribed under Marrickville Local Environmental Plan 2001. An objection under State Environmental Planning Policy No. 1 was submitted in relation to the non-compliance with the floor space ratio development standard. The proposal also does not comply with the provisions of Marrickville Development Control Plan No. 19 – Parking Strategy. However, the proposal generally complies with Marrickville Development Control Plan No. 27 – Waste Management, the design parameters, aims and objectives of Marrickville Development Control Plan No. 28 - Urban Design Guidelines for Business Centres, Marrickville Development Control Plan No. 31 – Equity of Access and Mobility and Marrickville Development Control Plan No. 38 – Community Safety. It should be noted that the application was referred to Council's Local Traffic Planning and Advisory Committee who raised no objection to the development. Railcorp has also granted their concurrence to the proposal in accordance with the requirements under State Environmental Planning Policy - (Infrastructure) 2007.

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

PART A - PARTICULARS

Location: Eastern side of Illawarra Road, between Byrnes Street and railway corridor, Marrickville.



Image 1: Location Map

PART B - THE SITE AND ITS CONTEXT

Improvements: Four (4) storey masonry building

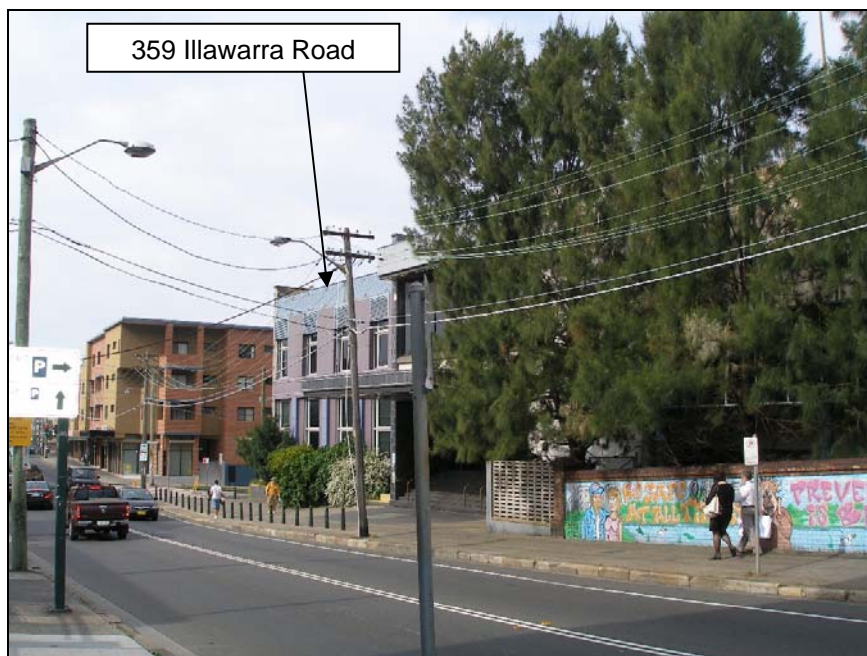


Image 2: View of subject site from Illawarra Road.



Image 3: View of subject site from the corner of Byrnes Street and O'Hara Street

Current Use: Vacant, former Marrickville RSL Club.

Prior Approval: Determination No. 13603, dated 18 March 1991, approved an application to erect two (2) external exit stairways for use in association with the RSL Club.

Determination No. 14145, dated 17 January 1992, approved an application to use the S.R.A. commuter car park at Marrickville Station adjoining the Marrickville RSL Club for a market.

Determination No.15009, dated 7 July 1993, approved an application to carry out alterations and additions.

Determination No. 200600535, dated 12 January 2007, approved an application to carry out alterations to the Marrickville RSL Club to provide two (2) outdoor smoking terraces, one (1) to the west facing Illawarra Road and one (1) to the east setback into the existing building structure.

Environment: A mixture of commercial/retail, residential and railway development.

PART C - REQUIREMENTS

1. Zoning

Is use permissible in zoning?

Yes

2. Development Standards (Mandatory Requirements):

Type	Required	Proposed
Floor space ratio (max)	2:1	2.29:1
Adaptable dwellings (min)	18	18

3. Departures from Council's Codes and Policies:

Type	Required	Proposed
Parking	(see main body of report)	
Loading/unloading	(see main body of report)	
Waste	(see main body of report)	
Massing	(see main body of report)	
Height	(see main body of report)	
Building Facade	(see main body of report)	
Privacy	(see main body of report)	
Access and Mobility	(see main body of report)	
Community Safety	(see main body of report)	
On-site facilities	(see main body of report)	

4. Advertising/Notification:

Required: Yes (newspaper advertisement, on-site notice and resident notification)

Submissions: One hundred and fifteen (115) submissions and one petition, containing a total of 1,114 signatures were received in response to Council's notification of the proposal.

5. Other Requirements:

ANEF 2029 Affectation: 25-30 ANEF
Marrickville Section 94 Contributions Plan 2004 \$2,356,605.03

PART D - ISSUES

1. Background

On 6 August 2009, a development application was lodged with Council seeking approval to demolish the existing improvements and erect a mixed use development containing 128 dwellings, 6,072m² of retail/commercial uses (including a supermarket with a gross floor area of 3,311m²) and a 612m² club (Marrickville RSL Club) with off street parking for 396 vehicles. The application was notified in accordance with Council's Notification Policy and fifty-three (53) submissions and two petitions, containing a total of 362 signatures were received objecting to the proposed development.

The development application related to a type of development that the Minister of Planning categorised to be of regional significance. As a result, the Sydney East Joint Regional Planning Panel was the consent authority for the purposes of determining the application.

Council officers undertook an assessment of the application and identified a number of issues and significant departures from Council's existing planning controls, including floor space ratio; building mass/height; visual amenity; community safety; accessible facilities; view loss; waste and on-site facilities, drainage/flooding issues; traffic and parking related issues raised by Council's Local Traffic Planning and Advisory Committee and issues raised by RailCorp.

In response to the issues identified, the applicant was given the opportunity to withdraw the application within a seven (7) day time frame. The applicant did not withdraw the subject development application within the specified time frame.

Council's Development Assessment Officer prepared an assessment report on the application.

The application and Council Development Assessment Officer's assessment report were presented to the Council Meeting as C1009 Item 1 on 20 October 2009. The assessment report recommended that the application be refused for the following reasons:

1. *"The proposed development has a floor space ratio of approximately 2.73:1 which is well in excess of the maximum floor space ratio of 2:1 permitted under Clause 33 of Marrickville Local Environmental Plan 2001. In terms of gross floor area the proposed development exceeds the floor space ratio development standard by approximately 4,444sqm.*
2. *The objection under State Environmental Planning Policy No. 1 to the floor space ratio (FSR) development standard submitted with the development application is not considered to be well founded or worthy of support objection particularly considering that the primary justification for the non-complying FSR is based on a document (draft Marrickville Village Centre Urban Design Study) which has not been adopted by Council as policy.*
3. *The proposed development's significant departure from the floor space ratio development standard applying to the subject property results in a development that does not appropriately respond to the built form and character of the surrounding locality and an intensity of development that would adversely impact on the amenity of the surrounding neighbourhood.*
4. *The proposed development does not satisfactorily address the design principles contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, particularly Principle 1 –Context and Setting; Principle 2 – Scale; Principle 3 – Built Form; Principle 4 – Density; Principle 7 – Amenity; Principle 8 – Safety and Security and Principle 10 – Aesthetics.*
5. *The proposed development does not comply with the minimum Building Separation distances contained in the Residential Flat Design Code under State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.*
6. *Railcorp have not granted their concurrence to the proposed development in accordance with requirements under State Environmental Planning Policy (Infrastructure) 2007.*
7. *The proposed development is considered unsatisfactory on traffic and parking related grounds for the following reasons:*
 - a) *The traffic report submitted with the application substantially under estimates the additional traffic volumes likely to be generated by the proposed development and consequently does not adequately address the traffic generation impacts of the proposed development;*
 - b) *Unacceptable increases in traffic volume on Byrnes Street during peak periods and its impacts on adjoining residential properties in the street;*

- c) *Increased parking demand in the area and adverse impacts on existing on-street parking spaces in Byrnes Street and surrounding streets, given that the off-street parking provision is short by 122 car parking spaces in accordance with Marrickville Development Control Plan No. 19 - Parking Strategy;*
 - d) *The size of vehicles proposed to service the proposed development would have difficulty manoeuvring safely through the existing road system in the vicinity of the site, particularly the intersection of Illawarra Road and Byrnes Street;*
 - e) *The proposed removal of the existing concrete pedestrian refuge island at the pedestrian crossing in Byrnes Street at its junction with Illawarra Road, to allow large rigid vehicles and semi trailers servicing the development to turn from Illawarra Road into Byrnes Street would create increased traffic and pedestrian hazard. The removal of the pedestrian facility is not supported particularly considering its location in a major pedestrian thoroughfare close to a railway station; and*
 - f) *The turning movements of heavy vehicles and semi trailers from Illawarra Road into Byrnes Street would impact by holding up traffic on Illawarra Road, when trucks are queuing to turn into Byrnes Street, while waiting for pedestrians to cross Byrnes Street at the crossing. This queuing could also have an impact on the two traffic signals on Illawarra Road at both Petersham Road and Marrickville Railway Station.*
8. *The proposal does not satisfy the aims and objectives of Marrickville Development Control Plan No. 28 – Urban Design Guidelines for Business Centres in regard to Height, Massing, Corner Sites, Building Facade, Retail Frontages, Visual and Acoustic Privacy.*
 9. *The proposed development is considered to be excessive in height, bulk and scale and an overdevelopment of the site.*
 10. *The development is contrary to the community safety provisions under Clause 62 of Marrickville Local Environmental Plan 2001 and Part 6 of Marrickville Development Control Plan No. 38 – Community Safety.*
 11. *The proposed on-site waste storage facilities are contrary to Marrickville Development Control Plan No. 27 – Waste Management.*
 12. *The proposed development does not comply with the provisions of Marrickville Development Control Plan No. 31 – Equity of Access and Mobility in terms of facilities for persons with a disability.*
 13. *The carrying out of the proposed development would result in significant view loss for adjoining properties in the vicinity of Schwebel Street.*
 14. *The development plans accompanying the development application do not indicate the BASIX commitments as specified in BASIX Certificate Nos. 260276M and 2601150M.*
 15. *Insufficient information, in particular an arborist's report, flood study and details of various on-site facilities, was submitted with the application to enable a proper assessment of the proposal to be carried out in accordance with the requirements of the Environmental Planning and Assessment Act.*
 16. *In view of the above, and the public submissions received approval of the application would not be in the public interest."*

Council's Development Assessment Officer's assessment report on the application was also forwarded to the Sydney East Joint Regional Planning Panel for the Regional Panel's consideration. The matter was set down to be heard by the Panel on Wednesday 4 November 2009.

However, the applicant withdrew the application prior to it being heard by the Panel.

On 19 March 2010, the current development application, which is under consideration in this report, was submitted to Council.

2. The Site and Surrounds

The subject site is located on the eastern side of Illawarra Road, between Byrnes Street and railway corridor, Marrickville. The site has a legal description of Part Lot 101 in Deposited Plan 842284. The site is irregular in shape and has a primary street frontage of 74.45 metres to Illawarra Road and a secondary street frontage of 152.21 metres to Byrnes Street. The site has an area of approximately 6,075.5m².

The site is currently occupied by a four (4) storey masonry building, which was formerly known as the Marrickville RSL Club, and is currently vacant.

To the immediate north of the site, the subject property is located opposite a three storey mixed use development and single storey dwelling houses along Byrnes Street. The mixed use building, located on the northern corner of Illawarra Road and Byrnes Street, contains retail uses on the ground floor level, with commercial/residential uses above.

To the immediate south of the site, the subject property adjoins a railway corridor and Marrickville Railway Station, which is listed as a State Heritage item and is also listed as a heritage item under Marrickville Local Environmental Plan 2001.

To the immediate west of the site, the subject property is located opposite a mixture of two storey and three storey mixed use developments and residential flat buildings. The mixed use buildings generally contain retail uses on the ground floor level, with commercial/residential uses above.

To the east of the site, the subject property is located opposite a mixture of single storey and two storey residential dwelling houses.

3. The Proposal

The site has a legal description of Part Lot 101 in Deposited Plan 842284 and is commonly referred to as 359 Illawarra Road, Marrickville.

Approval is sought to demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms.

The proposed development contains three individual buildings, Building A which fronts Byrnes Street, Building B which fronts Illawarra Road and Building C which fronts the railway line.

The following provides a breakdown of the various levels within the proposed development and the development contained within each level.

The lower ground (basement) level contains 98 residential car spaces, which includes 16 accessible car spaces; lifts and staircase access to the upper levels of the development. This level also contains seven (7) residential units within Building C, which comprise of one (1) studio, one (1) x one bedroom unit and five (5) x two bedroom units; and communal open space fronting Byrnes Street.

The ground floor level contains 70 car spaces, which includes 42 residential car spaces and 28 combined residential visitor/commercial car spaces and an additional three (3) short stay loading/unloading spaces. Five (5) of the 70 car spaces are accessible car spaces. The level also contains a loading/unloading dock, accessed off Byrnes Street, separate commercial and residential waste storage areas, 39 bicycle parking spaces, lifts and staircase access to the upper levels of the development and seven (7) residential units within Building C, which comprise of one (1) studio, one (1) x one bedroom unit and five (5) x two bedroom units.

The upper ground floor level contains one small commercial/retail unit suite and six (6) residential units within Building A, which comprise of one (1) x one bedroom unit and five (5) x two bedroom units; a large commercial/retail suite within Building B and 17 residential units within Building C, which comprise of three (3) studios, eight (8) x one bedroom units and six (6) x two bedroom units. The level also contains communal open space, lifts and staircase access to the upper levels of the development.

Level one and level two contains seven (7) residential units within Building A, which comprise of two (2) x one bedroom units and five (5) x two bedroom units; eight (8) residential units within Building B, which comprise of two (2) x one bedroom units and six (6) x two bedroom units; and 17 residential units within Building C, which comprise of three (3) studios, eight (8) x one bedroom units and six (6) x two bedroom units. The level also contains lifts and staircase access to the upper levels of the development.

Level three contains seven (7) residential units within Building A, which comprise of two (2) x one bedroom units and five (5) x two bedroom units; eight (8) residential units within Building B, which comprise of two (2) x one bedroom units and six (6) x two bedroom units; and 11 residential units within Building C, which comprise of two (2) studios, seven (7) x one bedroom units and two (2) x two bedroom units. The level also contains lifts and staircase access to the upper levels of the development.

Level four contains eight (8) residential units within Building B, which comprise of two (2) x one bedroom units and six (6) x two bedroom units; and 11 residential units within Building C, which comprise of two (2) studios, seven (7) x one bedroom units and two (2) x two bedroom units. The level also contains lifts and staircase access to the upper levels of the development.

Level five and level six contains eight (8) residential units within Building B, which comprise of two (2) x one bedroom units and six (6) x two bedroom units; and nine (9) residential units within Building C, which comprise of one (1) studio, seven (7) x one bedroom units and one (1) x two bedroom units. Level five also contains lifts and staircase access to level 6 of the development.

A copy of the floor plans, roof plan, sections and elevations of the proposed development submitted with the application are reproduced below:

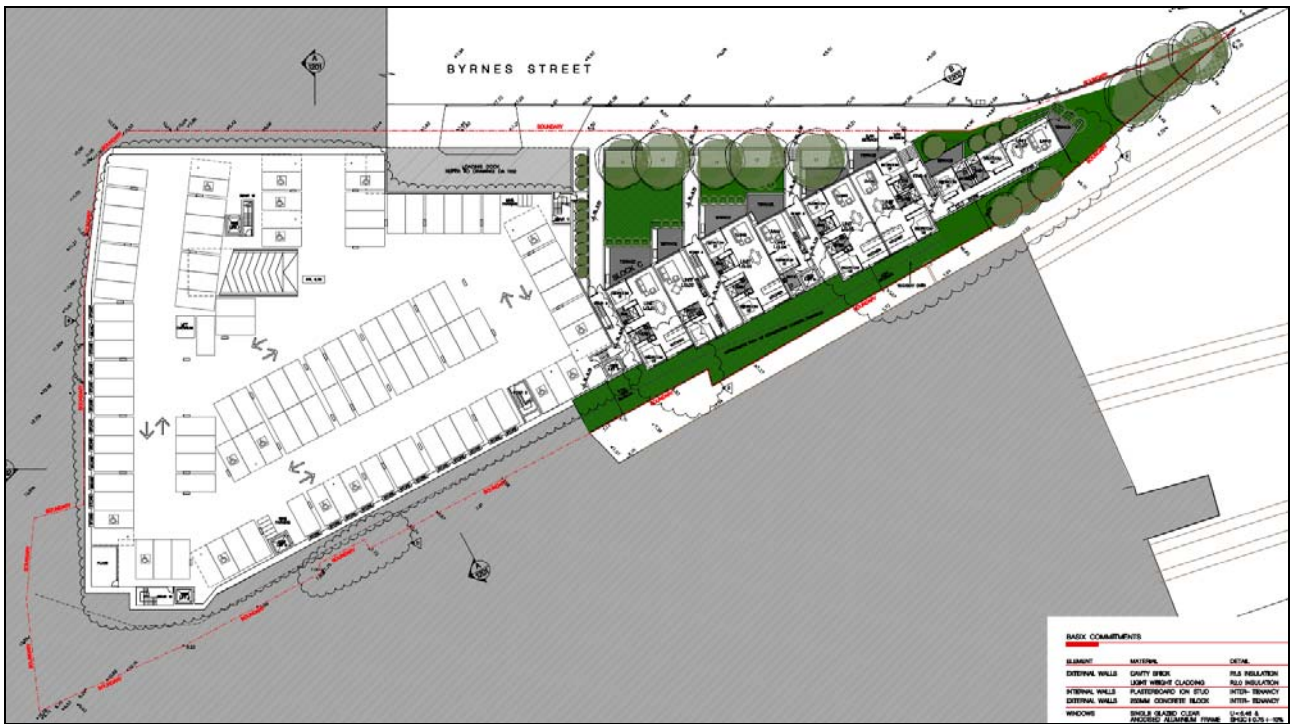


Image 4: Proposed Lower Ground Floor Plan



Image 5: Proposed Ground Floor Plan

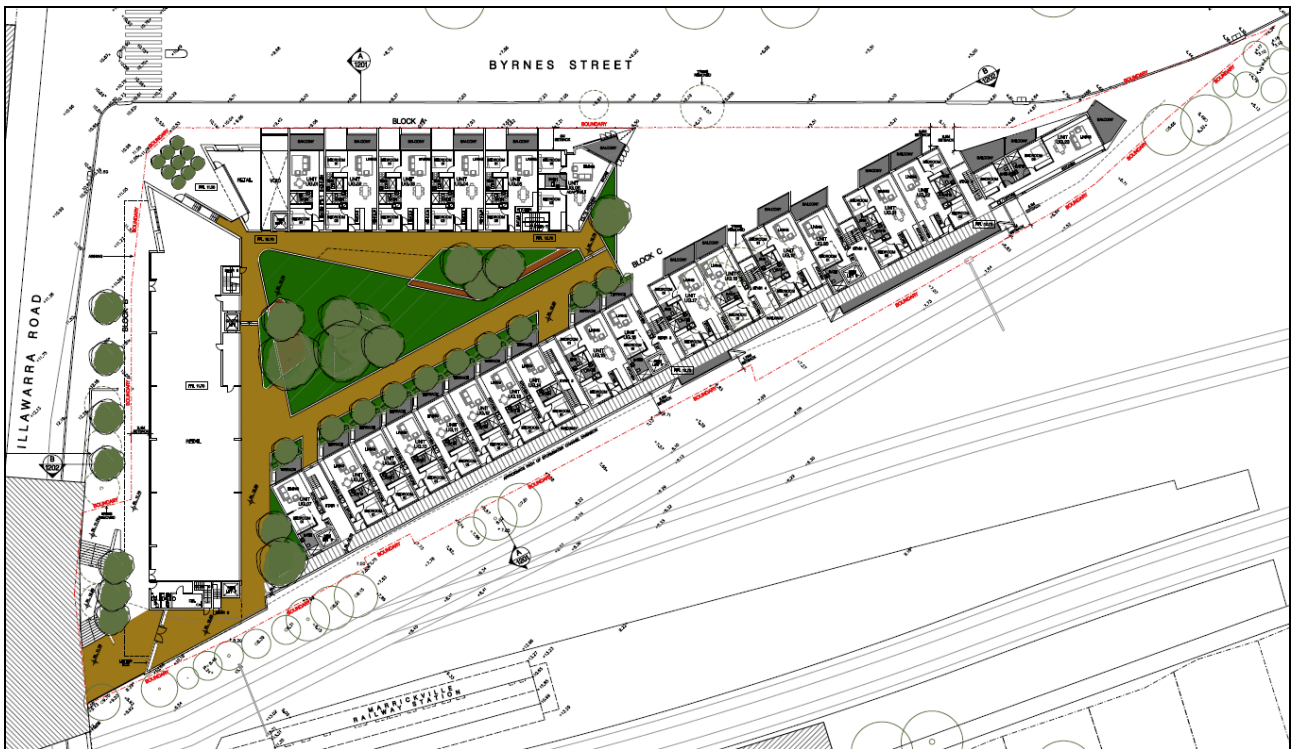


Image 6: Proposed Upper Ground Floor Plan

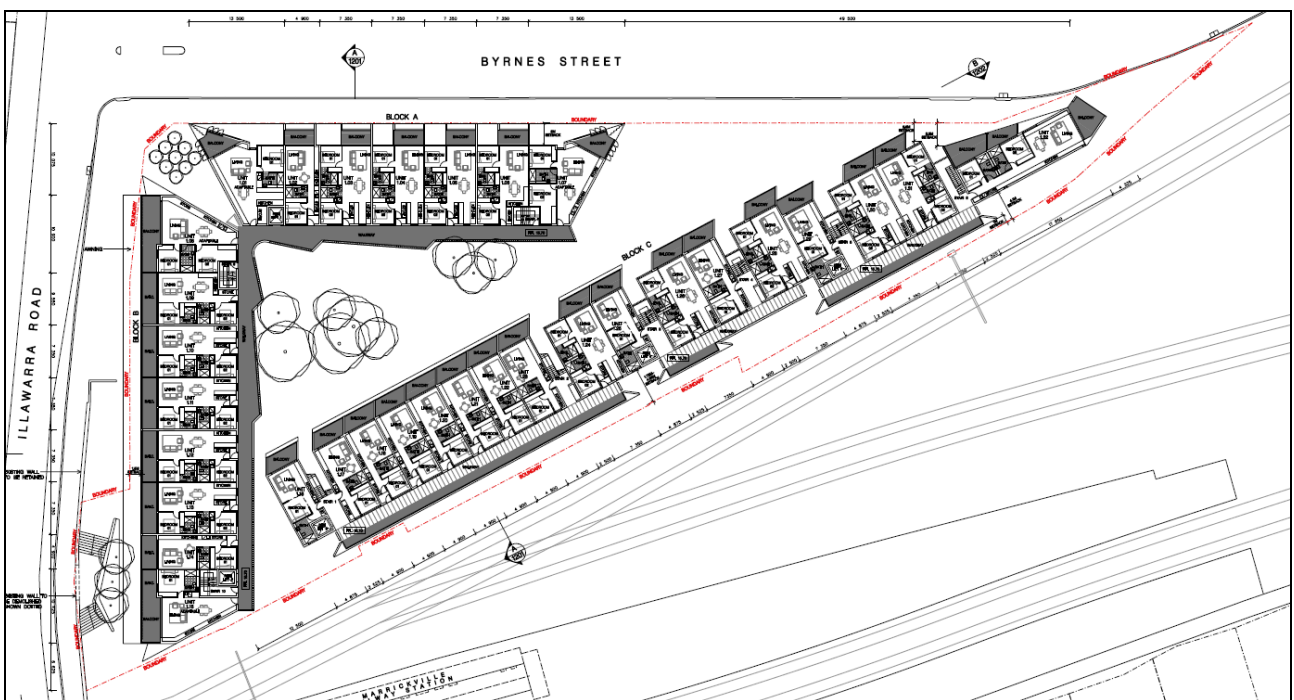


Image 7: Proposed Level 1 Floor Plan

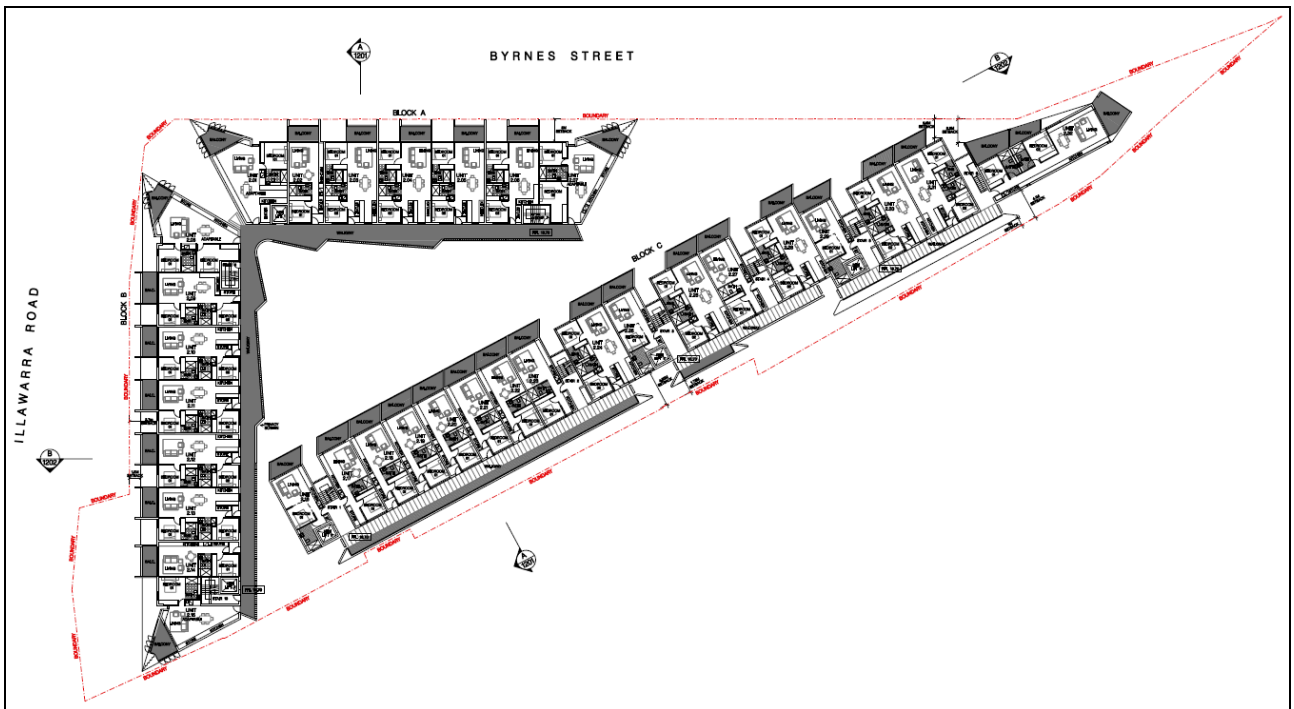


Image 8: Proposed Level 2 Floor Plan

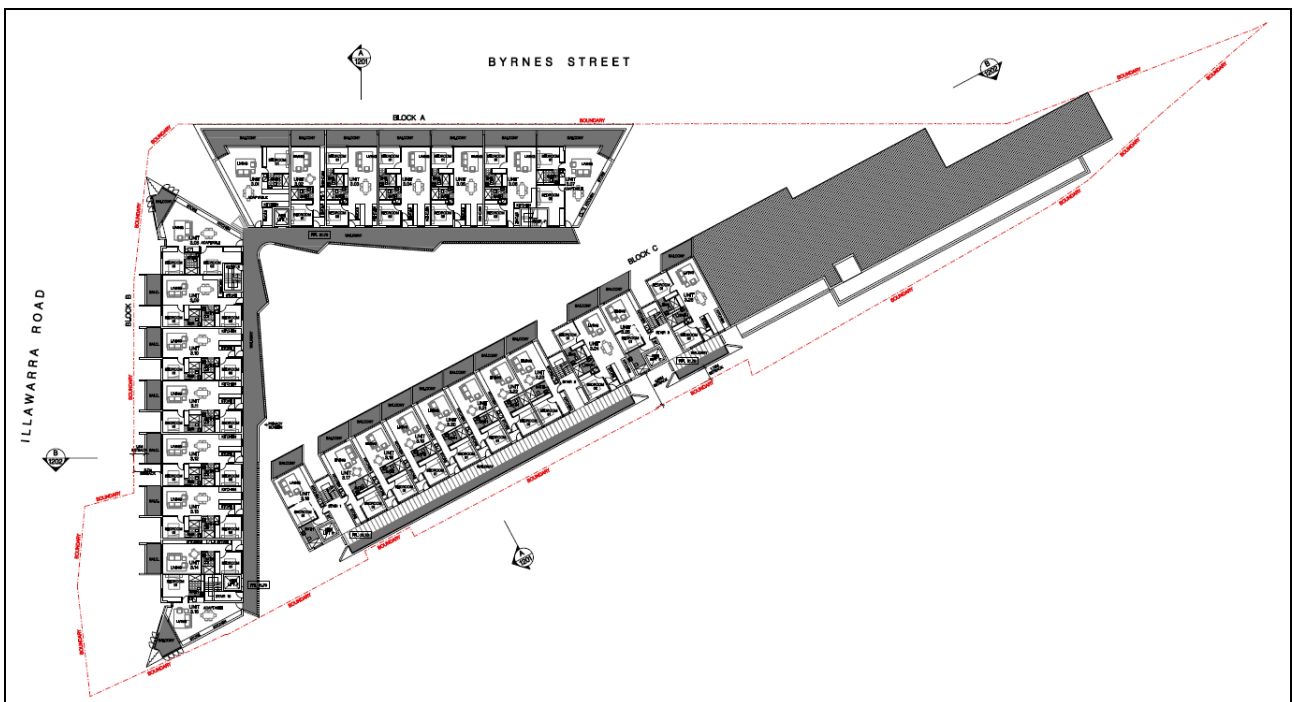


Image 9: Proposed Level 3 Floor Plan

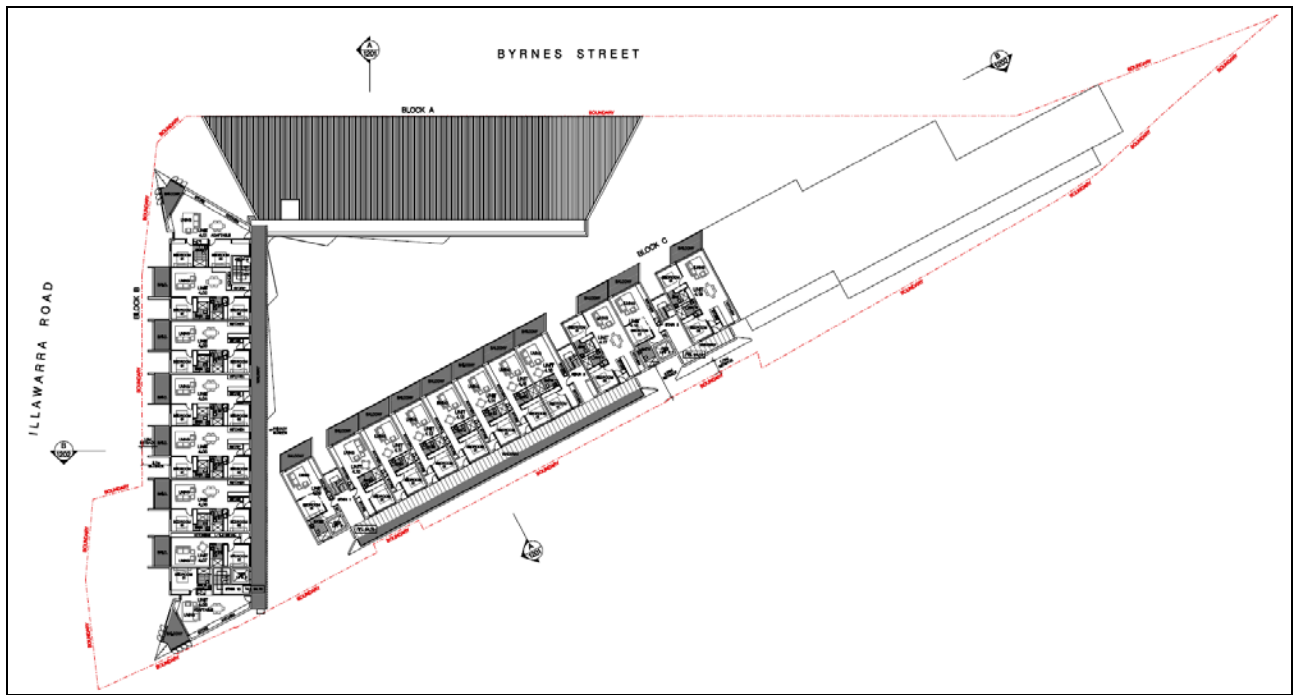


Image 10: Proposed Level 4 Floor Plan

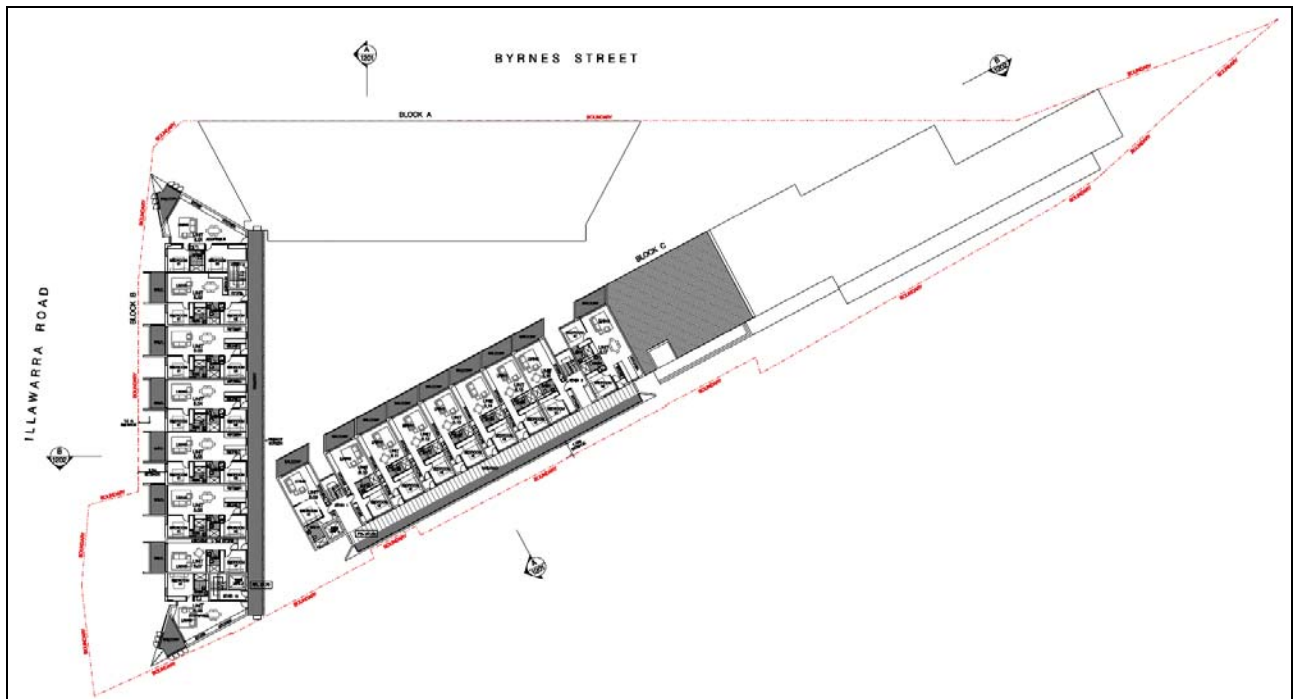


Image 11: Proposed Level 5 Floor Plan

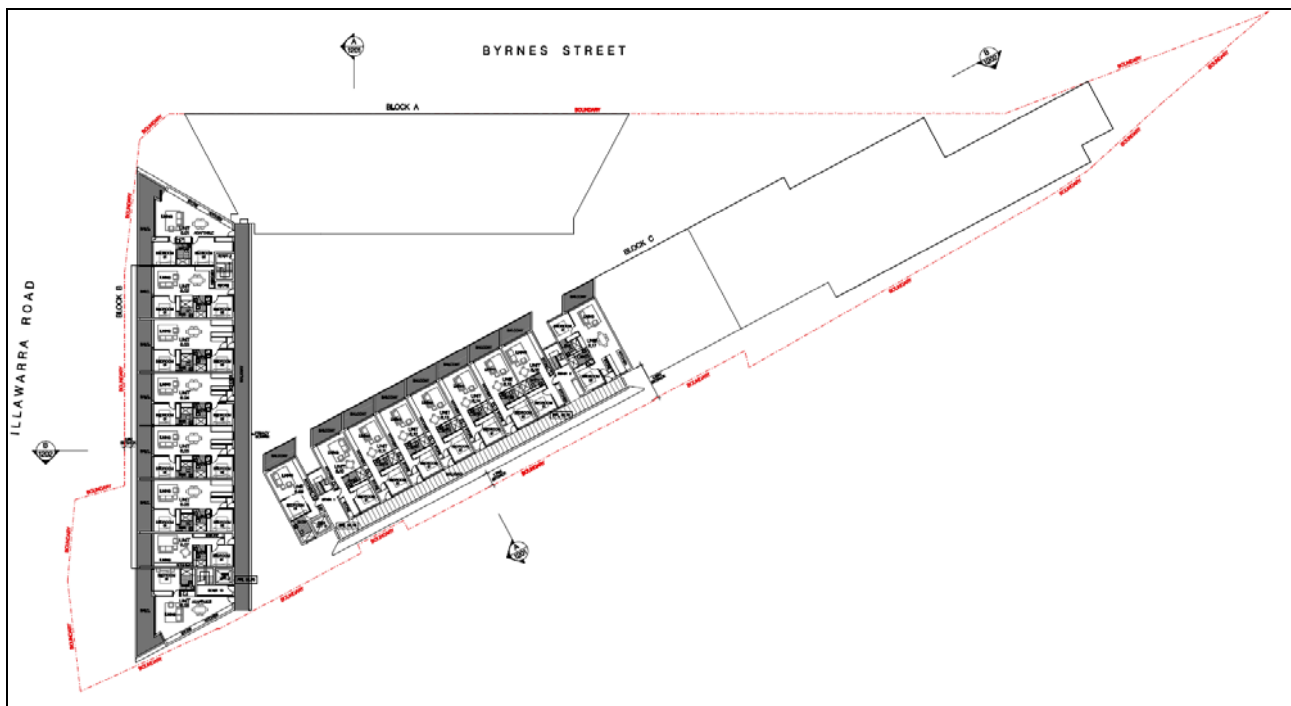


Image 12: Proposed Level 6 Floor Plan

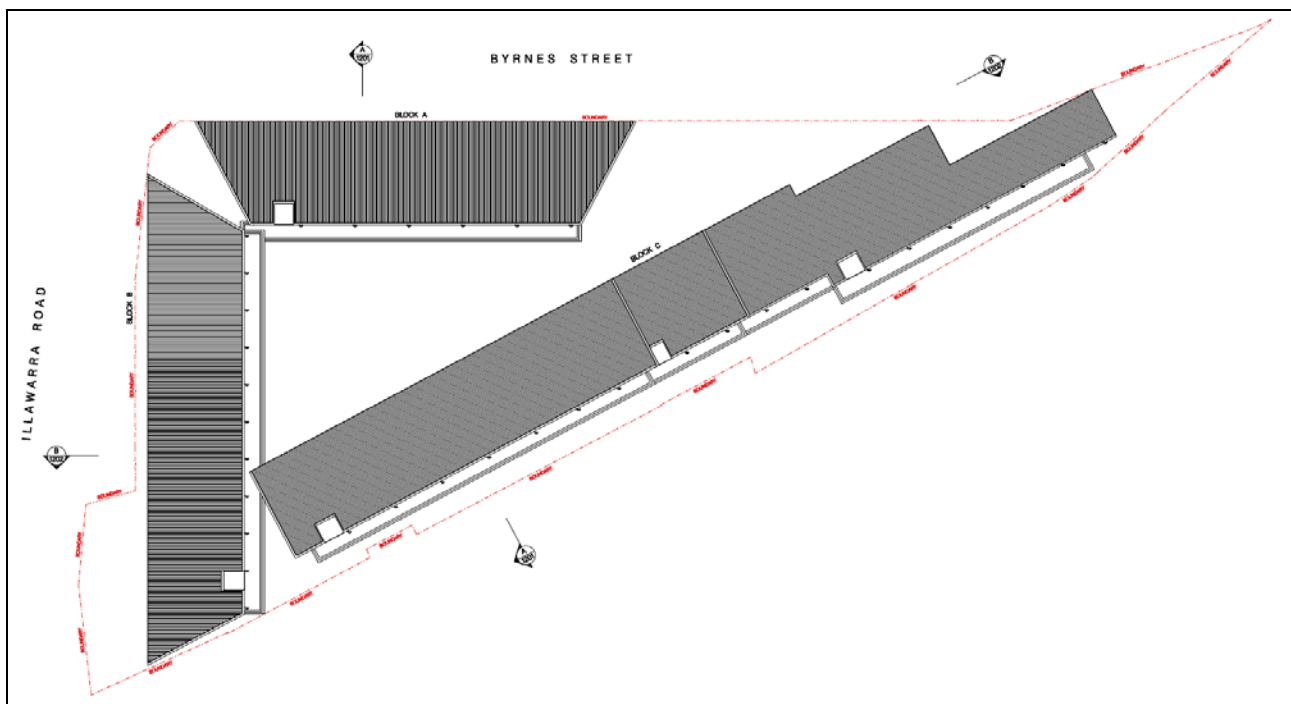


Image 13: Proposed Roof Plan

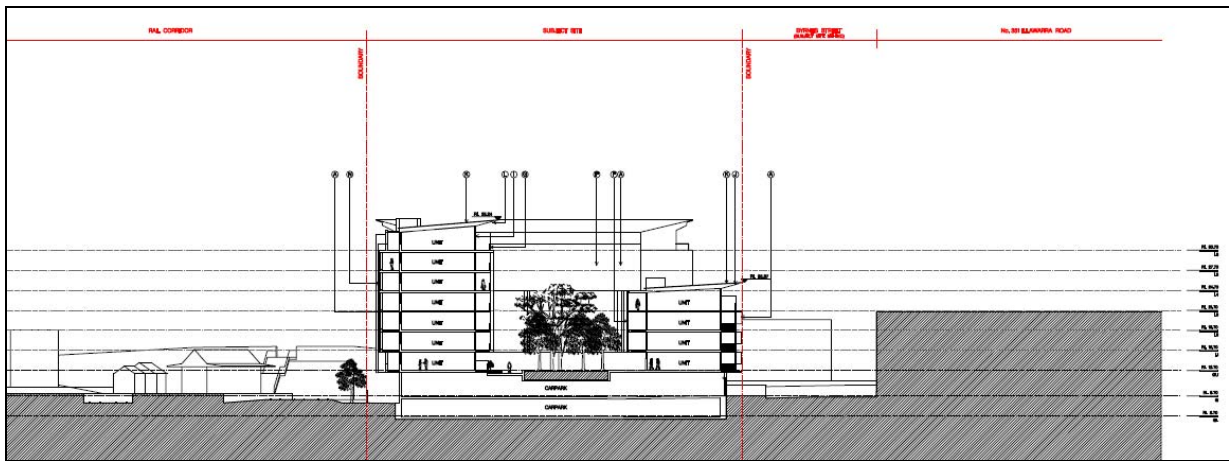


Image 14: Proposed Section A-A Plan

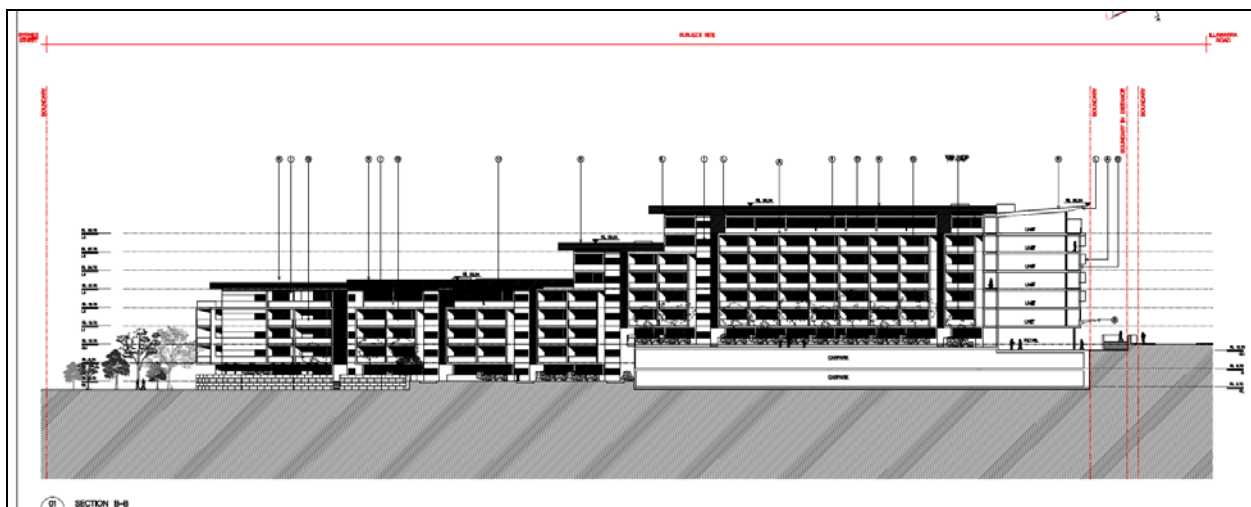


Image 15: Proposed Section B-B Plan

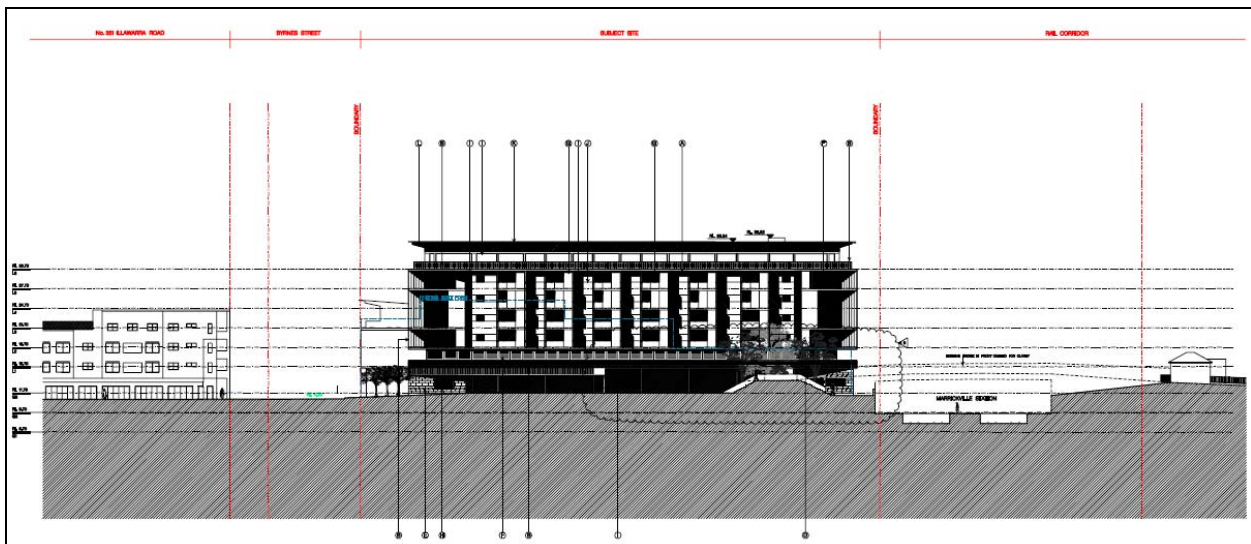


Image 16: Proposed Illawarra Road (East) Elevation

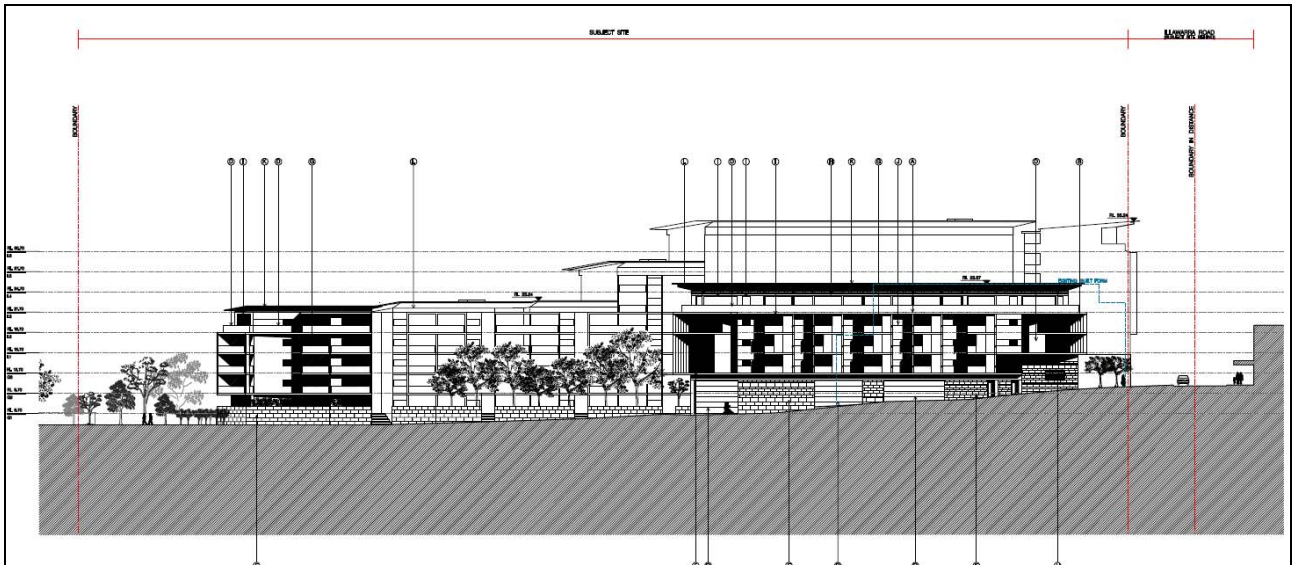


Image 17: Proposed Byrnes Street (North) Elevation

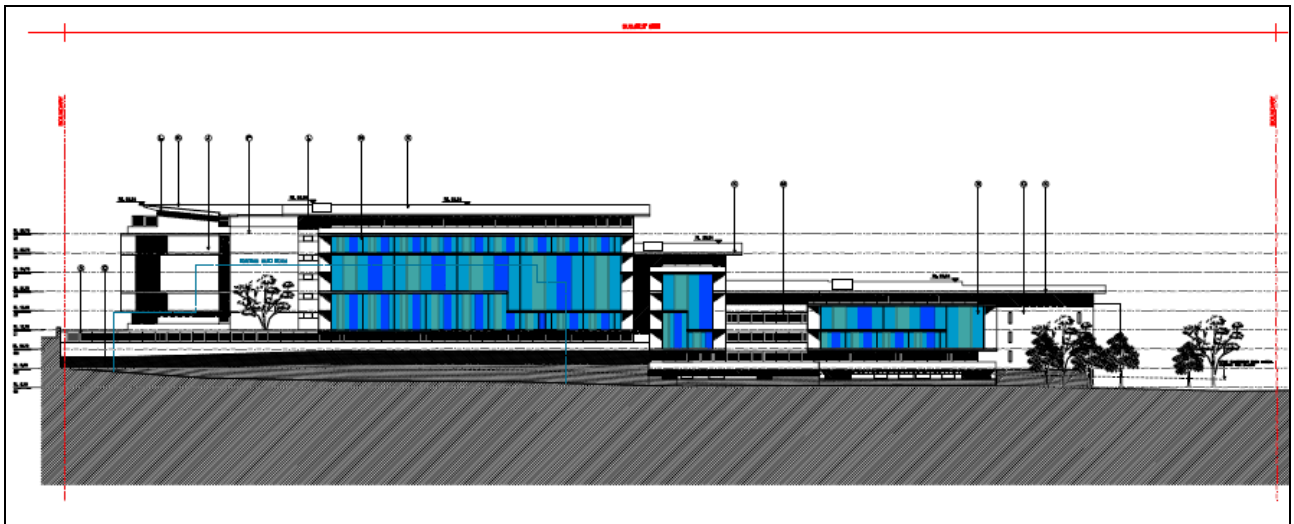


Image 18: Proposed South Elevation



Image 19: Proposed View from Illawarra Road and Byrnes Street Corner



Image 20: Proposed View of Illawarra Road Elevation



Image 21: Proposed View of South Elevation



Image 22: Proposed View of Byrnes Street Elevation

4. Planning Assessment

The following planning instruments and controls apply to the development:

- (i) State Environmental Planning Policy (SEPP) No. 1;

- (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- (iii) State Environmental Planning Policy No. 55 - Remediation of Land;
- (iv) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- (v) State Environmental Planning Policy (Infrastructure) 2007;
- (vi) Marrickville Local Environmental Plan 2001;
- (vii) Marrickville Development Control Plan No. 19 – Parking Strategy;
- (viii) Marrickville Development Control Plan No. 27 – Waste Management;
- (ix) Marrickville Development Control Plan No. 28– Urban Design Guidelines for Business Centres;
- (x) Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls;
- (xi) Marrickville Development Control Plan No. 31 - Equity of Access and Mobility;
- (xii) Marrickville Development Control Plan No. 32 – Energy Smart Water Wise;
- (xiii) Marrickville Development Control Plan No. 38 – Community Safety; and
- (xiv) Marrickville Section 94 Contributions Plan 2004.

5. State Environmental Planning Policy (Building Sustainability Index: BASIX)

To encourage sustainable development, all new dwellings must comply with the BASIX Scheme. The proposal consists of three separate residential buildings (Buildings A, B and C). Two BASIX Certificates were submitted accompanying the subject application, one for Buildings A and B and one for Building C.

The proposed development has achieved full compliance with the BASIX commitments. The proposed development has reached the score of 40% for water and a score of 32% for energy for Buildings A and B. Building C has reached a score of 40% for water and 26% for energy.

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

SEPP 55 contains planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. The subject property is located within an area identified as being subject to acid sulfate soil risk. The principles in SEPP 55 guidelines controls and procedure for remediation of contaminated lands are generally covered by Clause 57 of MLEP 2001 and Marrickville Development Control Plan No. 29 - Contaminated Lands Policy and are considered as part of the assessment of the application presented in **Section 14** of this report under the heading “*Marrickville Development Control Plan No. 29 - Contaminated Lands Policy*”.

7. State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65)

SEPP 65 was released as a part of the Design Quality Program in October 2000 and was gazetted on 17 July 2002. The proposed development is required to be assessed under SEPP 65 because it is a residential flat building of three storeys or higher containing 4 or more dwellings. This SEPP highlights ten design quality principles to guide architects

designing residential flats and to assist councils in assessing those developments. The principles relate to key design issues such as:

- The context for design – the locality and streetscape
- Scale, form and density of the building
- Measures to achieve resource, energy and water efficiency
- Landscape design to create useful outdoor spaces for residents
- Safety and security, including ensuring public areas are safe, visible and well lit at night.

As required by the SEPP, the applicant submitted a Design Verification Statement prepared by the architect who has directed and overseen the design of the proposal. This Statement is required to address the 10 design quality principles contained in the SEPP. The Statement of Environmental Effects accompanying the subject application addressed those principles and it is considered the proposal responds to the design parameters set for the area.

The development seeks approval to demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms.

Council does not prescribe a numerical height limit for mixed use development, however utilises development within the surrounding commercial/retail streetscape and design parameters contained within Marrickville Development Control Plan No. 28 - Urban Design Guidelines for Business Centres (DCP 28) as a guide. It is noted that the predominate height of the surrounding commercial/retail development within the Illawarra Road/Byrnes Street area is 3 to 4 storeys.

The subject development has been separated into three individual buildings, Building A which fronts Byrnes Street, Building B which fronts Illawarra Road and Building C which fronts the railway line. Building A is a four (4) part five (5) storey building which has a height ranging from approximately 15.4 metres to 19.4 metres. Building B is a seven (7) storey building, which has an approximate height of 23.4 metres. Building C is a five (5) part seven (7) storey building which has a height ranging from approximately 16 metres to 28 metres.

The proposed development does not compliment the height of the surrounding commercial/retail development within the Illawarra Road/Byrnes Street streetscape. Notwithstanding this, the proposed building massing and height of the development is considered acceptable. The development distributes the massing into three separate buildings. The majority of the building mass is proposed along the Illawarra Road frontage of the site with the proposed building stepping down towards the rear of the site. This is considered to be an effective design response. The proposal also appropriately articulates the building facades with balconies and contrasting finishes/materials such as the stone wall along Byrnes Street and the glazed ground floor façade along Illawarra Road. This matter is discussed further in **Section 13** under the heading “*Building Massing and Building Height*”.

The proposal also provides ample landscaped and communal open space areas within the development which are of sufficient size and shape to allow for the use of the area as recreation space. This matter is discussed further in **Section 13** under the heading “*Open Space and Landscaping*”.

In addition, it is considered that the design of the proposed development generally promotes safety and surveillance of the surrounding public areas/road. The proposed dwellings provide adequate surveillance of Illawarra Road and Byrnes Street. This matter is discussed further in **Section 10** under the heading “*Community Safety (Clause 62)*”.

In view of the circumstances, it is considered that the proposed development does satisfactorily address the design principles contained in SEPP 65, particularly Principle 1 – Context and Setting; Principle 2 – Scale; Principle 3 – Built Form; Principle 4 – Density; Principle 7 – Amenity; Principle 8 – Safety and Security and Principle 10 – Aesthetics.

Residential Flat Design Code

The Residential Flat Design Code (RFDC) is a set of guidelines that provide 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 a development responds to its local context, provides a suitable site analysis and quality design.

Whilst the majority of the provisions contained in the RFDC are generally covered by Marrickville Development Control Plan No. 28 – Urban Design Guidelines for Business Centres and are considered as part of the assessment of the application presented in **Section 13** of this report, it should be noted that the proposed development fails to satisfy two fundamental requirements of the RFDC regarding building separation and deep soil zone, those aspects of a development are not specifically addressed in DCP 28.

Under the RFDC, the suggested dimensions within a development, for internal courtyards 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 (including bedrooms and studies) and for any residential flat building 5 to 8 storeys or up to 25 metres in height there should be a separation of 18 metres between habitable rooms (including bedrooms and studies)/balconies.

The subject development consists of three separate buildings (Buildings A, B and C). The dwelling entries and walkway on the southern façade of Building A have a minimum separation of 6.6 metres from the residential balconies/terraces along the northern façade of Building C. The walkway along the southern façade of Building B has a minimum separation of 2 metres from the residential balconies/terraces along the northern façade of Building C. The residential balconies on the northern façade of Building B have a minimum separation of 8.5 metres from the residential balconies of Building A.

Whilst the proposed development is inconsistent with the building separation controls prescribed by the RFDC, it is considered the development has incorporated adequate measures to avoid visual and acoustic privacy impacts for future occupants, which may result from the lack of building separation. To reduce any overlooking, the development incorporates timber screened walkways along the southern facades of Buildings A and B to avoid any overlooking between those buildings. Also, to reduce any issue of acoustic privacy for future occupants, the applicant submitted an *Environmental Noise and Vibration Assessment, Report No. 2009408/2502A/R3/BW, dated 10 March 2010, prepared by Acoustic Logic Consultancy* which made recommendations for the development to be adequately noise attenuated, this is discussed further in **Section 8** under the heading “*State Environmental Planning Policy - (Infrastructure) 2007*”. A condition should be imposed on any consent granted requiring the development to be

noise attenuated in accordance with the recommendations under *Environmental Noise and Vibration Assessment, Report No. 2009408/2502A/R3/BW, dated 10 March 2010, prepared by Acoustic Logic Consultancy.*

It should also be noted that the building separation non-compliance is a direct result of particular site constraints such as the irregular site shape and width, the site width varies from 74.45 metres to less than 1 metre. It should also be noted that the non-compliance is restricted to a small portion of the development. The majority of the development generally complies with the RFDC Building Separation requirement. This is demonstrated within the figure below:

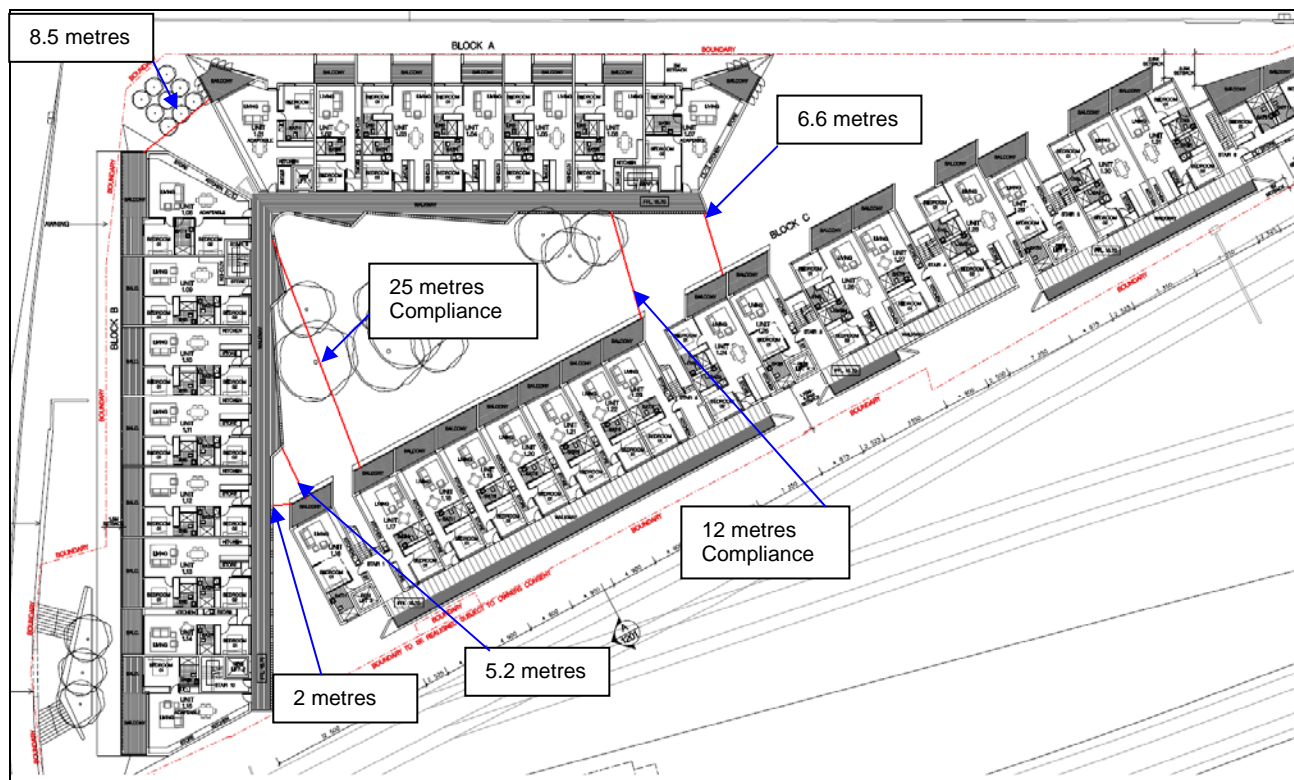


Figure 23: Building Separation

The RFDC also requires a minimum of 25% of the site area to be provided as a deep soil planting zone. The subject site has an area of approximately 6,075.5m², and as such would require a total area of 1,518.9m² as a deep soil planting zone. The proposal provides a deep soil planting zone of 1,401m² or 23%. This amounts to a departure of 117.9m². The applicant provided the following justification in regards to the non-compliance:

“The proposal does not provide 25% deep spoil planting as suggested by the Residential Flat Building Code. Compliance with this numerical guide is difficult with podium type mixed use developments such as this with a large footprint basement parking below. The proposal contains 750m² of deep soil planting (13%). However the landscaped courtyard on upper ground level has soil depth throughout in excess of 1.1m metres, which is capable of supporting mature trees on grade. The podium level contains 651m² of deep soil planting, which combined together with the actual deep soil planting equates to 1,401m² of deep soil plant (23%).”

The non-compliance with the deep soil planting zone requirements of the RFDC is considered to be acceptable as the departure is minor.

Given the above, it is considered that the proposed development satisfies the design parameters outlined in the RFDC.

8. State Environmental Planning Policy - (Infrastructure) 2007

Clause 45 of State Environmental Planning Policy - (Infrastructure) 2007 states as follows:

“45 Determination of development applications—other development

- (1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) development carried out:*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*
 - (c) installation of a swimming pool any part of which is:*
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
 - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:*
 - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.”*

The subject property is located in close proximity to a number of electricity distribution poles and electricity power lines. In accordance with Clause 45 of the SEPP, the application was referred to Energy Australia, who provided the following comments:

“I wish to advise that, Energy Australia has an existing substation located within the proposed development site. Energy Australia will need a new substation established prior to the removal of the exiting substation. The new substation must have the capacity to accommodate the loads of the existing substation and the new load of the proposed development.”

A condition should be imposed on any consent granted requiring a new substation to be established which can accommodate the loads of the existing substation and the new load of the proposed development prior to the removal of the existing substation.

The subject site is also located immediately adjacent to a rail corridor. Under Clause 85 and 86 of State Environmental Planning Policy - (Infrastructure) 2007 the consent authority must not grant consent to development on land that is adjacent a railway corridor unless it is satisfied the following criteria is met:

“85 Development immediately adjacent to rail corridors

- (1) This clause applies to development on land that is in or immediately adjacent to a rail corridor, if the development:*
 - (a) is likely to have an adverse effect on rail safety, or*
 - (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
 - (c) involves the use of a crane in air space above any rail corridor.*
- (2) Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) take into consideration:*
 - (i) any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*

86 Excavation in, above or adjacent to rail corridors

- (1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:*
 - (a) within or above a rail corridor, or*
 - (b) within 25m (measured horizontally) of a rail corridor. or*
 - (c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.*
- (2) Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) take into consideration:*
 - (i) any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.*

- (3) *Subject to subclause (4), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor to which the development application relates, unless that rail authority is ARTC.*
- (4) *In deciding whether to provide concurrence, the chief executive officer must take into account:*
 - (a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - (i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*
- (5) *The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:*
 - (a) *the consent authority has given the chief executive officer notice of the development application, and*
 - (b) *21 days have passed since giving the notice and the chief executive officer has not granted or refused to grant concurrence."*

In accordance with Clauses 85 and 86 of State Environmental Planning Policy - (Infrastructure) 2007, the subject application was referred to Railcorp for concurrence. Railcorp reviewed the application and granted their concurrence in a letter, dated 8 June 2010 which reads as follows:

"I refer to Council's letter dated 23 March 2010 requesting RailCorp's concurrence for the above matter.

RailCorp advises that concurrence is granted subject to the imposition of the following deferred commencement conditions and standard conditions...

RailCorp is requesting the imposition of a number of deferred commencement conditions as several matters pertaining to the development site need to be resolved prior to any works under this Development Application commencing. The issues that need to be resolved relate to the RailCorp easements that currently encumber the development site, the demolition of the obsolete staircase structure that was linked to the now demolished carpark, and the requirement to undertake a boundary adjustment along the rail corridor which has been indicated in this proposal's development application plans.

Should Council choose to not impose the deferred commencement condition, then RailCorp's concurrence has not been granted to the proposed development.

Deferred Commencement Conditions

This consent is not to operate until the Applicant has met the following conditions within 12 months of the date of this consent, and that the Applicant has provided evidence of this compliance to both Council and RailCorp.

A1

RailCorp's current easements encumbering the development site are either to be extinguished or adjusted to RailCorp's satisfaction. Should agreement be reached with RailCorp for the extinguishment of the easements then this condition has not been complied with until Council has been furnished with written correspondence from RailCorp of its agreement and evidence that the easement has been removed from title.

Should agreement be reached with RailCorp for the adjustment of the easements then this condition has not been complied with until Council has been furnished with written correspondence from RailCorp of its agreement to the adjustment and evidence that the easement has been adjusted on title.

B1

The Applicant is to submit a development application and obtain development approval for the demolition of the obsolete staircase within the rail corridor (and which forms part of the former RSL club).

The applicant is to obtain RailCorp's written agreement as to how and when this staircase is to be demolished (ie before or during the demolition of the former RSL club and whether a track possession is required).

This condition has not been complied with until RailCorp has been provided with a copy of the development approval to demolish the staircase and Council has been furnished with written correspondence from RailCorp of its agreement as to how and when the demolition is to occur.

C1

The Applicant is to enter into agreement with RailCorp regarding any boundary adjustment along the rail corridor common boundary (of which has been envisaged in this proposal's plans), and register the change in boundary on title.

This condition has not been complied with until Council has been furnished with written correspondence from RailCorp of its agreement to the boundary adjustment and evidence that the new boundary has been registered on title.

Any conditions imposed by RailCorp as part of its approval/certification/requirements will also form part of this consent and must be complied with.

RailCorp also grants its concurrence subject to the imposition of the standard conditions ... that will need to be complied with upon satisfaction of the above Deferred Commencement Condition."

Conditions in accordance with the above comments are required to be imposed on any consent granted.

It should also be noted, that the applicant lodged a separate development application on 21 June 2010, seeking approval to demolish the staircase located within the railway corridor, referred to in Condition B1 of RailCorp's concurrence. That application is currently

under assessment. The applicant also amended the development application, the subject of this report, to exclude the boundary adjustment along the rail corridor common boundary referred to in Condition C1 of RailCorp's concurrence.

It should also be noted that the applicant has requested RailCorp review the terms of their concurrence to the application. The applicant organised a meeting on 23 June 2010 with representatives of RailCorp and Council officers to discuss the matter. The meeting was quite productive between the respective parties and RailCorp indicated that they may consider reviewing their concurrence. However at the time of writing this report, RailCorp had not issued a revised concurrence for the proposal. In the absence of any "amended" concurrence terms officers must impose the current set of deferred commencement conditions detailed above.

Clause 87 of the SEPP relates to the impact of rail noise or vibration on non-rail development, in this case, the development is required to demonstrate compliance with the following measures:

- "(a) in any bedroom in the building—35 dB(A) at any time between 10.00pm and 7.00am,*
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time."*

The applicant submitted an *Environmental Noise and Vibration Assessment, Report No. 2009408/2502A/R3/BW, dated 10 March 2010, prepared by Acoustic Logic Consultancy* in regards to Clause 87 of the SEPP. The Environmental Noise and Vibration Assessment concluded the following:

"CONCLUSION

This report provides the results of Environmental Noise Study for the proposed 359 Illawarra Road, Marrickville, development site development. Noise at the site has been measured and acoustic goals have been set in accordance with the requirements of the relevant statutory/regulatory authorities including local council and the DECC and the SEPP (Infrastructure) 2007.

Determination of noise assessment criteria based on the DECC's Industrial Noise Policy been determined based on both unmanned and manned noise monitoring conducted at the proposed development.

The assessment included the investigation and testing of the environmental noise and vibration to establish compliance criteria for:

- Traffic noise assessment*
- Carpark loading dock noise assessment*
- Railway noise and vibration assessment*
- Aircraft noise assessment*
- Building services assessment*

Provided the recommendations in this report are complied with noise emission from site affecting neighbouring residents levels will comply with the relevant DECCs criteria (section 5), SEPP and Australian Standards."

A condition should be imposed on any consent granted requiring the development to be noise attenuated in accordance with the recommendations under *Environmental Noise and Vibration Assessment, Report No. 2009408/2502A/R3/BW, dated 10 March 2010, prepared by Acoustic Logic Consultancy.*

9. Draft Marrickville Comprehensive LEP 2010

Council is in the process of preparing a new comprehensive environmental planning instrument for the local government area in accordance with the Department of Planning's Standard Instrument. The preparation of the draft Marrickville Local Environmental Plan 2010 (draft MLEP 2010) has been formally under way since May 2007 when Council resolved to prepare a draft Plan and notified the Department of Planning. Since that time considerable work has been undertaken to inform the preparation of the draft Plan, in particular the Marrickville Urban Strategy 2007 which set the direction for the new LEP, along with major studies and reviews on employment lands, village centres, heritage and industrial precincts.

One of those studies was the draft Marrickville Village Centres Urban Design Study (Centres Study). The Centres Study will feed into the draft Local Environmental Plan (LEP) and Development Control Plan (DCP) currently being prepared for public exhibition.

The Centres Study includes the former Marrickville RSL site as a site specific study area. A maximum floor space ratio of 2.6:1 (based on the definition of gross floor area under the Standard Instrument) and a maximum height of 26 metres is proposed for development on the subject property under the controls in draft MLEP 2010.

At the Development and Environmental Services Committee meeting of 1 September 2009, Council resolved to move towards the public exhibition of the draft Marrickville Local Environmental Plan 2010 together with the consolidated DCP. The plans are close to being finalised and it is intended that they be placed on public exhibition in August.

In light of the above status of the comprehensive LEP it is considered that reliance on the draft LEP is pre-emptive. In view of the circumstances it is considered that it would be inappropriate to give any weight to possible future controls at least until the draft LEP has a Section 65 Certificate and is placed on public exhibition.

10. Marrickville Local Environmental Plan 2001 (MLEP 2001)

(i) Zoning (Clauses 13 and 18)

Marrickville Local Environmental Plan 2001 (MLEP 2001), gazetted on 18 May 2001, is the principal planning instrument which currently applies to the site. The majority of the subject site is zoned General Business. Residential flat buildings, 'that are not attached to a permissible use' are prohibited under the General Business zoning provisions applying to the land. As the proposed dwellings would be attached to a permissible use, the proposed development would be permissible with Council's consent on that part of the site zoned General Business.

The proposed development complies with the zone objectives under Marrickville Local Environmental Plan 2001.

A small portion of the site along the southern side boundary is zoned Special Uses – Railways. The proposed development on that part of the site zoned Special Uses – Railways is permissible with Council's consent.

(ii) Subdivision (Clause 26)

Clause 26 of MLEP 2001 states that a person must not subdivide land to which the Plan applies without development consent. The subject application does not seek consent to subdivide the proposed development.

(iii) Aircraft Noise (Clause 28)

The subject property is located within the 25-30 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. However, it should be noted that the more stringent noise attenuation measures under State Environmental Planning Policy (Infrastructure) 2007 would apply to the proposed development.

(iv) Flood Prone Land (Clause 29)

Part of the subject property has been identified as flood prone land on the Flood Planning Area Map in the preliminary draft Marrickville Local Environmental Plan 2010. The subject application was accompanied by a *Hydraulic Impact Assessment Issue 3, dated May 2010, and prepared by VDM Consulting*, addressing the issue of flooding. The Hydraulic Impact Assessment concluded the following:

“8. Conclusion

This study has reviewed the hydrology and hydraulics of the site for pre and post-development scenarios and investigated the impact of the proposed RSL redevelopment on upstream and downstream properties.

Based on this study the following conclusions have been drawn:

- *Floodwaters enter the subject site from the north and south;*
- *The proposed stormwater channel will direct the southern flows along the southern boundary to the legal point of discharge of the site;*
- *Flood levels within the ponding area and flooding experienced on the railway line are similar to that discussed within ACOR's Flood Study (2009), and thus calibrates well with previous hydraulic investigations. Obviously it is difficult to compare a 1D DRAINS model with a 2D TUFLOW model, and differences will exist between models.*
- *During post-development conditions the Q_{100} flood ponding level for the site is at 6.25m AHD;*
- *The entrance to the basement carpark will be set at a minimum of 6.75m AHD; and*
- *The proposed development will generate some increases in peak flood level external to the site during the Q_2 , Q_{20} & Q_{100} events, however these increases will present no real actionable damage and have no adverse impact on any neighbouring properties due to the existing depths already experienced.*

The 2-dimensional hydraulic model upon which this assessment has been based, will be refined following receipt of the final DTM from the detailed Operational Works design.

In summary, the proposed development will not have any adverse impacts on upstream or downstream owners."

The subject application, including the Hydraulic Impact Assessment, was reviewed by Council's Development Control Engineer who provided the following comments:

"The site is located in a depression at the intersection of Byrnes and O'Hara Streets. During a 1 in 100 year storm ponding at this low point results in flooding of the surrounding low lying properties including the development site. The applicants have submitted a flood study prepared by VDM consulting. The study found that the during a 1 in 100 year storm ponding adjacent to the site reaches a level of RL 6.25m AHD. With the provision of 500mm freeboard the floor levels of all residential units shall be set a 6.75m AHD and the entry to the basement carpark shall also be set at 6.75m AHD to protect it from flooding."

In light of the above comments, Council's Development Control Engineer raised no objection to the proposal in terms of flooding, and recommended appropriate conditions be imposed on any consent granted.

(v) Floor Space Ratio (Clause 33)

A maximum floor space ratio of 2:1 applies to developments (other than boarding houses) within a General Business zone under Clause 33 of MLEP 2001. Clause 33 of MLEP 2001 does not specify a maximum floor space ratio for developments within a Special Uses – Railways zone. In this regard it is considered that the floor space ratio development standard applying to the General Business zone should be used as a guide.

The proposed development has a gross floor area (GFA) of 13,917m² which results in a floor space ratio of 2.29:1 which exceeds the subject development standard.

The applicant lodged an objection under State Environmental Planning Policy No. 1 in relation to the departure from the subject development standard. The applicant considers compliance with the development standard unreasonable on the following grounds:

"STATE ENVIRONMENTAL PLANNING POLICY NO. 1 DEVELOPMENT STANDARDS - OBJECTION

Address: 359 Illawarra Road, Marrickville

Proposal: Demolition of existing structures and construction of a mixed commercial/residential development with basement parking.

1.0 Introduction

The proposal seeks consent for the demolition of all existing structures and construction of part five/part six and part seven storey mixed commercial/residential building comprising approximately 663m² of commercial floor space and 180 residential units with basement car park for 171 vehicles at 359 Illawarra Road, Marrickville.

The site is zoned part General Business 3(A) and part Special Uses 5(B) – Railways.

Clause 33 of Marrickville Local Environmental Plan (MLEP 2001) imposes a maximum FSR of 2:1 on development within the General Business 3(A) zone. There is no FSR restriction on the Special Uses 5(B) – Railways zoned part of the site.

The proposed development achieves an FSR of 2.29:1 (13,917m²). Accordingly the application can only be approved subject to an objection to this development standard prepared under SEPP 1.

2.0 Principles for SEPP 1 Objections

The decision of Justice Lloyd in Winten v North Sydney Council identifies the principles for which a SEPP 1 objection must be made, as follows:

- Is the planning control in question a development standard;*
- What is the underlying object or purpose of the standard;*
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act;*
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case; and*
- Is the objection well founded.*

The above principles are addressed in detail below.

3.0 Is the planning control in question a development standard?

The planning control in question is the Floor Space Ratio standard set out in Clause 33 of MLEP 2001. Clause 33 nominates a maximum floor space ratio depending upon the zoning of the land.

The MLEP 2001 zones the subject site General Business 3A and Clause 33 of MLEP 2001 identifies that buildings are not to exceed a FSR of 2:1 within a General Business 3A zone.

The proposal seeks to demolish the existing former Marrickville RSL Club building and construct a mixed commercial/residential building that will achieve a floor space of 13,917sqm on a site area of 6,075.5sqm achieving a FSR of 2.29:1

The proposal will exceed the 2:1 floor space ratio development standard.

The control is a numerical development standard and therefore is capable of being varied under the provisions of State Environmental Planning Policy No. 1 – Development Standards.

4.0 What is the underlying purpose of the standard?

Clause 33 of the MLEP 2001 does not include specific objectives for the FSR standards.

Notwithstanding this, the underlying purpose of the standard is to control the density and therefore bulk and scale of the development in order to control the amenity, streetscape, setting, and character of the area.

The density and bulk and scale of the development have been considered in detail in the SEE in respect of potential impacts on amenity, streetscape, setting and character of the area. Whilst the SEE recognises that the density and bulk and scale of the development exceeds surrounding development, the size of the site, its context, setting and surrounds, and strategic location to public transport, infrastructure and community facilities readily support a development of this scale with minimal impact on the amenity of surrounding properties in terms of privacy, solar access and retention of views. The urban form, architectural design, composition and materials are complementary to the streetscape, setting and character of the area.

Furthermore the objectives of the General Business 3A zone are also relevant when considering the merit of the application. The objectives are:

- “(a) to identify areas suitable for business and commercial activities, and*
- (b) to permit a variety of ancillary and complementary land uses, and*
- (c) to facilitate residential development in conjunction with other permissible uses in the zone.”*

The suitability of the proposed redevelopment against the objectives of the General Business 3A zone is demonstrated below:

- (a) to identify areas suitable for business and commercial activities, and*

The proposed development includes 663m² of commercial floor space along the Illawarra Road frontage of the site, consistent with the other commercial land uses along Illawarra Road.

- (b) to permit a variety of ancillary and complementary land uses, and*

The proposal includes 180 residential units as part of the mixed commercial/residential development. The residential use is complementary to the commercial use on the site and surrounding commercial properties, and the surrounding residential land uses.

- (c) to facilitate residential development in conjunction with other permissible uses in the zone.”*

The proposal includes 180 residential units in conjunction with the commercial units along Illawarra Road. The proposal is therefore a mixed commercial/residential development and is permissible in the zone.

In this respect, the proposal is considered to meet with the intent of the three objectives of the General Business 3A zoning of the site.

5.0 Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?

Yes. The aims and objectives of State Environmental Planning Policy No.1 – Development Standards are as follows:

“To provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or necessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.”

The objects set down in Section 5(a)(i) and (ii) are as follows:

“to encourage

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land...”*

Compliance with the standard would not hinder the attainment of the objects of S. 5(a)(i) and (ii) of the Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, and to promote and co-ordinate orderly and economic use and development of land.

Strict compliance with the development standard would not result in discernable benefits to the residential amenity of adjoining sites. Further, the proposal satisfies the zone and development standard objectives. Strict compliance with the standard is not required in order to achieve compliance with the objectives.

The development as proposed is consistent with the provisions of orderly and economic development.

6.0 Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

Yes. In the circumstances of the case, the provision of a strict numerical compliance would be unnecessary and unreasonable on the basis of that:

- the density of the proposed development is considered appropriate given the strategic location of the site and the density and scale of surrounding development;*
- the height and scale of the proposal is considered appropriate for this land mark site, which benefits from excellent public transport access and is isolated i.e. it enjoys no common boundaries with residential or commercial developments, with its dual street frontages and southern boundary to the railway line;*
- the size of the site 6,075.5m² represents a significant land holding in this inner suburbs location and represents a prime opportunity for urban renewal and increased density aimed at maximising the use of the immediately adjacent to public transport services;*
- a development of this scale and density will provide a significant boost to the economic and social vitality of the business centre through the increased density and number of residential units and provision of new commercial units;*
- the density of the development is comparable, if not significantly less than a number of other recent developments within the Marrickville business centre, including:*

- *Former Coles Site at 184 - 204 Marrickville Road, Marrickville which has a site area of 2,376sqm and a FSR of 2.59:1;*
- *Former Council Carpark Site at 176 Marrickville Road, Marrickville, which has a site area 1,301sqm and a FSR 2.23:1;*
- *Former Fossey Building at 244-250 Marrickville Road, Marrickville, which has a site area of 942.9sqm and a FSR 2.21:1;*
- *Lamia at 276-278 Marrickville Road Marrickville, which has a site area 589m² and a FSR 2.49:1.*
- *the height and scale is not considered detrimental to the character of the surrounding area. Whilst the scale exceeds surrounding development, which comprises a number of three (3) storey developments and isolated four (4) storey development, the urban form maximises the larger buildings along the southern boundary and Illawarra Road frontage, minimising impacts on the surrounding areas and allowing a transition in scale to the residential properties along Byrnes Street;*
- *the proposal will not impact on the amenity of the surrounding residential or commercial properties in terms of overshadowing or privacy; and*
- *the proposal generally complies with the requirements of SEPP 65 and the Residential Flat Design Code;*
- *the proposal generally complies with the requirements of the Council's various DCP controls; and*
- *the proposal complies with the Council's current future desired character for the site envisaged by the controls identified in the Preliminary Draft Marrickville LEP 2010.*

Given the circumstances of the case, the provision of a strict numerical compliance would be unnecessary and unreasonable on the basis of that the proposed development is able to achieve compliance with the objectives of the floor space control and the zone objectives without necessarily complying with the numerical standard.

7.0 Is the objection well founded?

Yes. It is concluded that the objection is well founded as compliance with the standard is both unnecessary and unreasonable and would hinder the attainment of the objects of the Act.

Summary

Development standards are a means of implementing objectives for an area.

The underlying purpose of the standard is to control the density and therefore bulk and scale of development in order to control the amenity, streetscape, setting, and character of the area.

Having regard to the General Business 3A objectives, the proposal will provide a mixture of commercial floor space suitable for business and commercial uses which will be supported by the residential development on the remainder of the site.

Having regard to the density, bulk and scale and impacts on amenity, streetscape, setting and character of the area, despite the numerical non-compliance with the FSR standard the redevelopment provides a built form that is considered appropriate for the urban context, strategic location of the site and desired future character envisaged by the Preliminary Draft Marrickville LEP 2010.

The proposal will have minimal amenity impacts upon adjoining properties and the locality.

A development strictly complying with the numerical standard would not significantly improve the amenity to surrounding land uses. In the context of the locality it would be unreasonable for strict compliance to be enforced, as the general form, and scale of the proposed development is compatible with adjoining building envelopes.

It is concluded that the objection is well founded as compliance with the standard is both unnecessary and unreasonable.”

As indicated above, the proposed development has a gross floor area of 13,917m², resulting in a floor space ratio (FSR) of 2.29:1. In terms of gross floor area, this amounts to a departure of 1,766m² from the maximum permitted 2:1 FSR development standard prescribed under Clause 33 of MLEP 2001. The justifications made in the SEPP 1 objection are considered to be well founded. The purpose or objective of the floor space ratio standard is not specifically expressed in MLEP 2001. It is considered that the purpose of a floor space ratio control is to establish standards for the maximum development density and intensity of land use and to control building bulk and scale.

As previously mentioned, the subject development distributes the proposed floor area/building mass into three individual buildings, Building A which fronts Byrnes Street, Building B which fronts Illawarra Road and Building C which fronts the railway line. Building A is a four (4) part five (5) storey building, Building B is a seven (7) storey building and Building C is a five (5) part seven (7) storey building.

Council does not prescribe a numerical height limit for mixed use development, however utilises development within the surrounding commercial/retail streetscape and design parameters contained within Marrickville Development Control Plan No. 28 - Urban Design Guidelines for Business Centres (DCP 28) as a guide. It is noted that the predominate height of the surrounding commercial/retail development within the Illawarra Road/Byrnes Street area is three (3) to four (4) storeys.

The proposed development does not complement the height of the surrounding commercial/retail development within the Illawarra Road/Byrnes Street streetscape. Notwithstanding this, the proposed building massing and height of the development is considered acceptable. The development distributes the massing into three separate buildings. The majority of the building mass is proposed along the Illawarra Road frontage of the site with the proposed building stepping down towards the rear of the site. This is considered to be an appropriate design response. The proposal also appropriately articulates the building facades with balconies and contrasting finishes/materials such as the stone wall along Byrnes Street and the glazed ground floor façade along Illawarra Road. This matter is discussed further in **Section 13** under the heading “*Building Massing and Building Height*”.

The distribution of the floor area within three separate buildings also ensures that a suitable level of amenity for future occupants and adjoining properties and the provision of sufficient amount of communal open space and private dwelling open space within the development. Those matters are addressed in **Section 13** of this report.

In view of the circumstances, the SEPP 1 objection is considered to be well founded and worthy of support.

(vi) Heritage (Clauses 47 to 55)

The existing building is not listed as a heritage item nor is it located within a heritage conservation area. The building however adjoins Marrickville Railway Station, which is listed on the Marrickville Local Environmental Plan 2001 and the State Heritage Register. The Register describes the Marrickville Railway Station as one of four similar structures built at Marrickville, Canterbury and Campsie and Belmore which represent the peak of island platform design. They are all substantial and well detailed buildings, indicating the importance placed by the railway administration to the development of Sydney suburbs with well established and grand, but modern, station buildings in the latest style. All are important in understanding the development of the railway system.

Marrickville Railway Station is also listed on the Marrickville Heritage Inventory. The Inventory makes reference to the existing Station Master's Cottage as an attractive station building constructed of dark brick with contrasting red brick and rendered detailing to the window and door openings. Each of those openings has a segmental head in red brick with rendered trim and keystone. The awning has a shallow timber valance. The iron arch over the main entry to the station and the secondary waiting rooms and awnings all add to the character of the site. The openings of the buildings have been filled in and security features, signage, street furniture, and fencing have been added to the property. Otherwise, there are minor modifications to the station.

The Station contains historic and social significance at a local level and is described as a relatively intact representation of a railway station in the area. This attractive 1890's station building took the name of Marrickville from the station now called Sydenham. It represents the development of the centre of Marrickville along the nearby Marrickville Road from the 1880's. This was the first western railway line constructed primarily for passenger traffic.

The application, including *Statement of Heritage Impact, dated March 2010, prepared by Noel Bell Ridley Smith & Partners* (accompanying the application) was reviewed by Council's Heritage and Urban Design Advisor who provided the following comments:

Description

The proposal occupies the site of the current Marrickville RSL Club, adjacent to a State significant heritage item – Marrickville Railway Station. The item is described on the State Heritage Register as being the station only, and not the overhead bridge or stairs.

Heritage Listings

The property is listed as an Item on the State Heritage Register, and MLEP 2001. It is also an Item in preliminary Draft MLEP 2010. The adjoining properties are not current or proposed items.

Proposal

The proposal involves demolition of the entire buildings on the site.... The southern boundary of the subject property was bounded by Freshwater Creek and the

boundary alignment appears to have followed the creek and accommodated a bend at the location of the existing fire stair.

Comment on proposal

Demolition

An earlier multi storey car park at the site, noted on the State Heritage Register as “detracting from the setting of the item”, is evident in the 2003 aerial photo. This car park was built over the goods railway line and up to the edge of the station building on the platform. The removal of this building in 2005 was beneficial to the setting of the station. The existing building bulk is less imposing on the setting, however it does present a blank bulky form which has an isolating effect on the station.

Archaeology

The western half of the site has been significantly disturbed by excavation and construction of 2 under ground levels of car park. The eastern sections of the site were developed between 1910-12 by a builder (Ernest Tucker) who sold them between 1912-16. There appear to have been 6 freestanding Federation style houses fronting Byrnes St, the footings of which may still be evident at the site. The footings are not considered to be significant. Being at the edge of Freshwater Creek aboriginal archaeology might have once been expected at the site, however the disturbance of the natural ground by the construction of the railway embankment over the creek, the construction and demolition of the carpark straddling the railway crossing, and the construction and demolition of the housing at the site, makes any archaeology very unlikely.

Setting

The proposal would present (to the station) a comparable level of impact to that of the existing building: it is a multistorey building, built roughly to the edge of the site boundary, and presenting a wall (proposed 25 metres) above the platform level (approximately 8 metres higher than the existing wall). The proposal does however offer some relief by the positioning of the courtyard (visible from the platform) between the two buildings which allows penetration of north light through the site, and perhaps to the platform. It also engages with the platform and the shops across the railway line fronting Leofrene Avenue: the transparent coloured glass walkways will present a more activated, and visually inter-connected interface between the station and the subject site, due to the volume of pedestrians using these accessways to apartments.

The existing Casurinas along the boundary are currently providing a screen between the two sites, and these appear to be remaining in the proposal. This will soften the impact of the building’s scale.

The presentation to the single storey houses fronting Byrnes St is somewhat addressed by the lower scale, and increased setback of the building directed at that frontage. However there is still a large discrepancy in scale. The proposed Draft MLEP 2010 retains a low density residential zoning for the individual houses in the street.

Boundary Adjustment

Due to the kink in the boundary - the fire-stair (which connected to the demolished carpark originally straddling the goods line) is located on the site marked on our heritage map as Heritage Item 3.17. The description on the inventory sheet

recognises that the car park (of which this was a part) was intrusive and should be removed.

The State Heritage Register limits the boundary of the item to the station platform so there is no need for an integrated development application. There is no question that the fire stair is not part of the heritage item and in fact it is part of an identified intrusive element. However a separate DA will be required for the demolition on the land parcel on which it is built (1/DP1042838), which must be accompanied by a Heritage Impact Statement in accordance with MLEP 2001, Clause 48(3).

Urban Design

The planning, size and form of the proposed development has not been addressed in this memo.

Conclusion

The proposal has a negligible physical impact on the heritage item, and would not be refused on heritage grounds."

Council's Heritage and Urban Design Advisor raises no objection to the proposed development on heritage grounds. It should also be noted, that a separate development application was lodged on 21 June 2010, seeking approval to demolish the fire staircase, located within the railway corridor. That application is currently under assessment.

(vii) Protection of Trees (Clause 56)

Clause 56 of MLEP 2001 concerns the protection of trees under Council's Tree Preservation Order. The proposal seeks approval for the removal of a number of trees along Illawarra Road, from within the subject site and from the adjoining Council/State Rail owned land. The application, including an *Arboricultural Impact Assessment Report and Tree Protection Specification, Revision C, dated 15 June, 2010, prepared by Integrated Vegetation Management* was reviewed by Council's Tree Management Officer who provided the following comments:

"Tree numbers referred to in this report are consistent with the Arboricultural Impact Assessment Report and Tree Protection Specification prepared by Integrated Vegetation Management and dated 18th March 2010 (and revised report dated 15th June, 2010).

DESCRIPTION OF TREES:

Trees protected under Council's Tree Preservation Order:

Trees located on the site that are nominated for removal as they are located within the building footprint:

Trees 14 - 19: Casuarina cunninghamiana (River She Oak) located along the Illawarra Road frontage of the site.

Trees 22 – 24: Ficus benjamina (Weeping Fig) located on the southern side of the site.

Tree 29: Callistemon viminalis (Weeping Bottlebrush) located on the northern side of the site.

Trees located on the Council footway nominated for removal to allow for a refurbishment of the footway and consistent new planting:

Trees 20-21: Callistemon viminalis (Weeping Bottlebrush) located on the Byrnes Road frontage of the site.

The removal and replacement of these trees is supported to allow for the proposed development. Many of these trees have a very poor structure, are exempt and or have low landscape value. Refer to submitted Arborist's Report for detailed assessment.

The Landscape Plan indicates 48 trees to be planted located throughout the site.

OFFICERS COMMENTS:

Trees 1-13: Casuarina cunninghamiana (River She Oak) located along the adjacent railway corridor (not on the subject property) are to be retained and protected during works. The applicant has clarified that the existing retaining wall that is located between these trees and the proposed work is to be retained. The proposed basement excavation is located between 2 metres and 4.9 metres from the southern side boundary and therefore these works are not likely to impact these trees.

The submitted Landscape Plan prepared by Site Image , dated 17 March 2010 - Issue C, drawing No 101, will require amendment to show the required street trees as specified by Council's Tree Management Officer. Specifications relating to tree species, size, site preparation, 'cut out' dimensions and tree guards will be provided to the applicant for inclusion on plans to be submitted for the Construction Certificate application."

Council's Tree Management Officer raised no objection in principle to the proposal subject to some amendments. Appropriate conditions incorporating the requirements of Council's Tree Management Officer including tree protection measures and replacement planting should be imposed on any consent granted.

(viii) Acid Sulfate Soils (Clause 57)

The subject site is located within an area identified as being subject to acid sulfate soil risk. Clause 57 of MLEP 2001 requires that before consent is granted, Council must consider a preliminary soil assessment which ascertains the presence or absence of acid sulfate soils if the proposal involves works at or below the ground water level or it could lower the ground water table. The proposed development requires the excavation for the two (2) storey car parking area.

The applicant submitted a *Stage 1 Environmental Site Assessment, Reference: E22940K-RPT Final, dated June 2009, prepared by Environmental Investigation Services*. The Environmental Site Assessment concluded the following:

"Based on the scope of work undertaken for this assessment EIS consider that the site can be made suitable for the proposed development provided that the following steps are undertaken:

- Additional investigation (contamination and acid sulfate soils) in currently inaccessible areas of the site is undertaken after demolition of the buildings;*
- Additional sampling and analysis of the groundwater is undertaken. If traces of toluene are present some groundwater treatment may be required during dewatering; and*
- Survey the existing buildings for hazardous building materials prior to demolition.*

Normal good engineering site management practice including control of run-off and dust suppression is recommended during earthworks and construction."

A condition should be imposed on any consent granted requiring additional investigation to be undertaken and the disposal of any potential acid sulfate soils in accordance with the measures outlined in *Stage 1 Environmental Site Assessment, Reference: E22940K-RPT Final, dated June 2009, prepared by Environmental Investigation Services* submitted with the application.

(ix) Waste Management (Clause 58)

Clause 58 of MLEP 2001 requires consideration of waste management for any proposed development. The proposed development includes the provision of waste storage areas on the lower ground floor level of the premises. This aspect of the proposed development is discussed further under the heading '*Marrickville Development Control Plan No. 27 - Waste Management*' in **Section 12** of this report.

(x) 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.

A BASIX Certificate was submitted with the application. This matter is discussed further under the heading '*State Environmental Planning Policy (Building Sustainability Index: BASIX)*' in **Section 5** of this report.

(xi) Landscaping and Biodiversity (Clause 60)

Clause 60 of MLEP 2001 requires consideration be given to conservation of biodiversity as is of relevance to the subject application. The proposal represents an opportunity for landscaping with native plants. A landscape plan was submitted accompany the subject application, which is considered to be acceptable subject to some amendments to comply with the requirements of Council's Tree Management Officer. Conditions to such effect should be imposed on any consent granted.

(xii) 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 design of the proposed development promotes safety and surveillance of the surrounding public areas/road. The glazed ground floor frontage of the commercial/retail area along Illawarra Road encourages an active façade and provides adequate surveillance of the area. The Illawarra Road frontage also provides a residential entry along the south western corner of the site. Whilst the residential entry is located approximately 2 metres below the existing public footpath area, the development activates this area with the provision of a staircase directly accessible from the public footpath.

The majority of the Byrnes Street frontage of the proposed development also encourages an active frontage and provides surveillance of the area with dwelling terraces and living

areas being visible from the street and communal pedestrian entries and communal open space areas located directly off the Byrnes Street frontage. However, a small portion of the Byrnes Street frontage, located towards the corner of Byrnes Street and Illawarra Road has an inactive street frontage, as it incorporates various roller doors and a stone wall design feature. This component of the proposed development is generally considered acceptable, as it spans less than 50% of the Byrnes Street frontage and incorporates a glazed residential foyer entry to active the area.

It is noted that the proposed dwellings located on the upper floors of the Illawarra Road and Byrnes Street frontages do not incorporate living areas which directly overlook the public areas/roads. This is generally acceptable, as the dwellings propose balconies overlooking the public areas/roads, to encourage surveillance, which are directly attached to living areas. To further ensure safety and security, a condition should be imposed on any consent granted requiring adequate lighting be provided to all residential entries and public areas within the proposed development.

As previously mentioned the subject development has been separated into three individual buildings, Building A which fronts Byrnes Street, Building B which fronts Illawarra Road and Building C which fronts the railway line. The development being designed in three separate buildings encourages openness, surveillance and transparency within the development and from the streetscape.

The site is currently occupied by a former Marrickville RSL and ancillary car parking area. The site is currently poorly maintained and does not promote community safety within the area. The proposed redevelopment of the site is considered an improvement and encourages community safety in accordance with the provisions contained in MLEP 2001 and Marrickville Development Control Plan No. 38 – Community Safety.

(xiii) Accessibility (Clause 64)

Clause 64 (2) requires at least 10% of the total number of dwellings in a multi unit housing or residential flat development containing 10 or more dwellings to be designed in accordance with Australian Standard AS 4299 – Adaptable Housing.

The proposed development would therefore require a minimum of 18 adaptable dwellings. This issue is discussed in more detail in **Section 15** of this report under heading '*Marrickville Development Control Plan No. 31 – Equity of Access and Mobility*'.

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

The car parking requirements under DCP 19 for the subject development are as follows:

Shops/Retail

30m² 500sqm-700sqm gross floor area (GFA) 11 car spaces plus 1 car space per
over 500sqm.
1 bicycle space per 300m² of GFA for employees

Dwellings

0.5 car spaces for small dwellings (less than 55m²)
1 car space per large dwelling plus one visitor car space per 4 dwellings.
1 visitor bicycle space per 10 dwellings.

In accordance with the above requirements the development requires and provides the following amount of car parking/bicycle spaces:

Use	Required	Proposed	Compliance
Residential: 80 units <50sqm 100 units >50sqm	40 car spaces 100 car spaces Nil bicycle spaces	140 Residential car spaces. 28 shared residential visitor and commercial/retail spaces. 39 bicycle spaces for commercial/retail and residential use	Compliance achieved with residential car spaces, however 13 space shortfall with the shared residential visitor and commercial/retail spaces. Compliance achieved with bicycle spaces.
Residential Visitors	25 car spaces 18 bicycle spaces		
Commercial/Retail (663sqm)	16 car spaces 21 bicycle spaces		
Total	181 car spaces 20 bicycle spaces	168 car spaces 39 bicycle spaces	13 space shortfall with the shared residential visitor and commercial/retail spaces.

The proposed car parking area is accessed from Byrnes Street and is distributed across two basement levels:

The proposed lower ground floor level accommodates 98 residential parking spaces of which 16 spaces are to be accessible spaces. The proposed ground floor level accommodates 73 car spaces broken down as follows: 42 residential car spaces, 28 commercial and residential visitor car spaces, of which five (5) car spaces are accessible, 39 bicycle spaces and 3 short stay loading/unloading spaces.

As indicated within the table above, the proposed development generally achieves compliance with the numerical car parking requirements of DCP 19, with the exception of the 13 car space shortfall in the shared residential visitor and commercial/retail spaces. The applicant provided the following justification in regards to the shortfall:

“Whilst it is acknowledged that this represents a shortfall of...visitor spaces, it is considered that this numerical shortfall is acceptable for the following reasons:

- 1. It is anticipated that the peak demand period for residential visitor spaces will be of an evening or weekend whilst the peak period for the use of the retail car spaces will be of a weekday afternoon. The retail spaces and the residential visitor spaces will be ‘pooled’ together as is normal for a mixed use residential development of this nature. Given that the peak demand periods do not coincide it is anticipated that the proposed pooling of the retail and residential visitor spaces will result in more than sufficient provision of car spaces for retail uses and residential visitors.*
- 2. The site has excellent public transport connections adjacent Marrickville Railway station and bus services operating along Illawarra Road. It is anticipated that an increased proportion of residential visitors and retail shoppers/ staff will utilise the proximal public transport (when compared to other*

developments of this type). This will significantly reduce the requirement for provision of car parking on this site for retail uses and residential visitors.

3. *The requirement to provide 1 visitor space 1 space per 4 apartments for visitors is high compared to the RTA guidelines, particularly for a location so well served by public transport.*
4. *A total of 39 bicycle parking spaces are provided, representing double the bicycle parking quantity required by Council's controls.*

In this regard, such a shortfall is unlikely to have a significant impact on the surrounding area."

The justifications provided by the applicant are considered to have merit. The shortfall is considered to be acceptable as the non-compliance amounts to a departure of 7%. Also, the site is well serviced by public transport with Marrickville Railway Station adjoining the subject site and public buses along Illawarra Road.

Given the large scale of the development it is considered that the subject proposal is of appropriate size and nature to accommodate car sharing spaces. The applicant has agreed for a condition to be imposed on any consent granted requiring two (2) car sharing spaces to be accommodated within the ground floor car parking area. A condition to such effect should be imposed on any consent granted.

DCP 19 also prescribes delivery and service area requirements, which are as follows:

Supermarkets, shops and restaurants

One (1) truck space per 400m² gross floor area up to 2,000m² gross floor area plus one truck space per 1,000m² thereafter.

Residential flat buildings

One (1) service vehicle space per 50 dwellings plus one (1) space per 100 dwellings thereafter.

In accordance with DCP 19, the proposed development is required to provide a total of three (3) loading/unloading bays. The proposed development provides one (1) loading/unloading bay which can accommodate a medium ridged truck with separate ingress and egress via Byrnes Street. Also three (3) short stay loading/unloading spaces are provided within the ground floor parking area of the development. The subject application complies with the numerical loading/unloading requirements of DCP 19.

It is noted that designated pathways/walkways have been provided within the proposed car parking areas to encourage pedestrian safety. However, to further ensure pedestrian safety, a condition should be imposed on any consent granted requiring the pedestrian pathways/walkways be clearly marked and maintained at all times.

The applicant provided an "Assessment of Traffic and Parking Implications, Reference No. 10010, dated March 2010, prepared by Transport and Traffic Planning Associates", accompanying the subject application addressing the issue of traffic and parking. The assessment report concluded the following:

"7. Conclusion

The development site is located in the Illawarra Road commercial strip in close proximity to Marrickville Station and represents a valuable opportunity for a mixed use development which is compatible with the planning principles for the precinct. The

traffic, transport and parking assessment provided in this report indicates that the development will:

- not present any unsatisfactory traffic capacity, safety or environmental related implications*
- incorporate a suitable and appropriate parking provision for the mixed use nature of uses*
- incorporate suitable vehicle access, internal circulation and servicing arrangements*
- make appropriate provision for cyclists, pedestrians and disabled drivers is otherwise consistent with the objectives of the Marrickville DCP 19 – Parking Strategy.”*

The application, including the *Assessment of Traffic and Parking Implications, Reference No. 10010, dated March 2010, prepared by Transport and Traffic Planning Associates*, were reviewed by Council's Local Traffic Planning and Advisory Committee at their meeting held on 18 May 2010. The Committee acknowledged the short fall in the shared residential visitor and commercial/retail car spaces within the development. The Committee acknowledged the proximity of the subject site to public transport such as Marrickville Railway Station, and raised no objection to the proposal on traffic or parking grounds.

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

The development provides three (3) separate bin storage areas, one retail waste storage area containing 29 x 240L bins and two residential waste storage areas containing 74 x 240L bins and 143 x 240L bins, on the lower ground floor level.

Based on the proposed 180 dwellings, Part 3 of DCP 27 requires the development to provide 90 x 240 litres bins each for general waste and recycled waste and up to 180 x 240 litre bins for green waste. The development proposes a total of 216 x 240L bins; 180 x 240L bins, for general waste and recycled waste and 36 x 240L for green waste.

In accordance with Part 4 of DCP 27, the proposed retail area would generate a total of 331.5L of general waste and 331.5L of recycled waste. The development proposes to provide a waste storage area which would accommodate 6,960L of waste for general and recycled waste.

The proposal complies with the retail waste requirements, general waste and recycled residential waste requirements. The number of bins proposed for green waste is considered acceptable for the amount of soft landscaping proposed within the development as the proposed bins will adequately sustain the likely amount of green waste produced.

As previously mentioned, the bins storage areas are located within the ground floor level. The commercial/retail waste produced by the development is proposed to be collected from the loading/unloading dock off Byrnes Street by a private contractor. Residential waste produced by the development is proposed to be collected from Byrnes Street by Council. Bins will be required to be wheeled along the pedestrian paths of travel to the south of the driveway of the car parking area. Given the large volume of on-site bins and to ensure waste collection for the proposed development does not result in any adverse impacts, the applicant supplied a detailed *Waste Management Statement, dated June 2010, prepared by Momentum Project Group*, which outlines collection points, rules and procedures for waste collection and appoints a caretaker to be responsible for putting out and brining in the bins from Byrnes Street. The waste management statement is

considered to be satisfactory and a condition should be imposed on any consent granted requiring the bin storage area be maintained and waste collection be carried out in accordance with *Waste Management Statement, dated June 2010, prepared by Momentum Project Group*.

Council is responsible for the collection of residential waste and at the present time Council waste collectors do not enter private property for the purpose of emptying bins. Consequently all the domestic waste bins would be required to be placed on the kerbside, in this case Byrnes Street, for collection.

In dealing with a report on an update of Marrickville Development Control Plan 2010 at the June 2009 meeting of the Development Assessment Committee (D0610 Item 17) Council resolved (in part) that:

“The Recycling and Waste Management section of the DCP be amended prior to exhibition to mandate that communal waste bins be provided internally to the site, be required for all residential flat buildings wherever possible to minimise the proliferation of bins on public streets.”

The proposed residential waste storage areas on the ground floor level of the premises are located in close proximity to the driveway entry and off street loading and unloading area proposed along Brynes Street. To enable residential waste collection to be carried out on site in the future it is considered that a condition should be imposed on any consent granted requiring the proposed loading/unloading dock within the premises to be of an appropriate size to accommodate a medium rigid Council garbage truck.

13. Marrickville Development Control Plan No. 28 – Urban Design Guidelines for Business Centres (DCP 28)

(i) Floor Space Ratio

The issue of floor space ratio has been discussed previously.

(ii) Building Massing and Building Height

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 centres as ridge roads, visible at their highest points to adjacent uses and neighbourhoods.”*

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 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."*

The development seeks approval to demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms.

The subject development has been separated into three individual buildings, Building A fronts Byrnes Street, Building B fronts Illawarra Road and Building C fronts the railway line. Building A is a four (4) part five (5) storey building, Building B is a seven (7) storey building and Building C is a five (5) part seven (7) storey building.

The predominant height of the surrounding commercial/retail development within the Illawarra Road/Byrnes Street area is three (3) to four (4) storeys. The proposed development exceeds the height of the surrounding commercial/retail development within the Illawarra Road/Byrnes Street streetscape. It is noted that the subject site is a corner site, which is generally permitted to have a height of up to 5 metres above the surrounding built forms within the area; however, the subject proposal is well above the 5 metres allowance. Notwithstanding this, the proposed building massing and height of the development is considered acceptable, designed as a "landmark" building on a prominent corner. The development distributes the building massing into three separate buildings. The majority of the building mass is proposed along the Illawarra Road frontage of the site with the proposed building stepping down towards the rear of the site. This is considered to be an appropriate design response and a significant improvement from the previously proposed development on the site. The proposal also significantly improves the view loss issues for properties along Schwebel Street associated with the previous proposal. The development is considered to be generally consistent with aims and objectives of DCP 28. The proposal also appropriately articulates the building facades with balconies and contrasting finishes/materials such as the stone wall along Byrnes Street and the glazed ground floor façade along Illawarra Road.

The development is designed as a "landmark" building on a prominent corner. The distribution of the building mass, combined with the appropriate use of light weight materials such as frameless glass and aluminium louvers complimented with heavy weight materials such as fibre cement cladding and profiled concrete within the building facades presents a visually interesting development. Whilst it is acknowledged that the overall architectural response of the development is generally not in keeping with the surrounding

area, the development is considered to be a positive contemporary architectural form for the area.

It is noted that the site is currently occupied by an 18 metre high structure which was the former Marrickville RSL. The existing structure is significantly higher than the surrounding commercial/retail development within the Illawarra Road/Byrnes Street area and is considered to be an “eyesore” lacking any architectural merit or positive streetscape consideration. The proposed development is considered to be a significant improvement from the existing structure.

The proposed building mass and height is considered acceptable for the site’s context.

(iii) Front Setbacks

DCP 28 outlines the following controls in relation to front setbacks:

‘C1 New development shall be built to the predominant setback, generally to front alignment.’

The proposed development is generally constructed on a zero lot line to the front boundary in line with the predominant building alignment of mixed use development along Illawarra Road and Byrnes Street.

(iv) Corners

DCP 28 outlines the following controls in relation to new corner buildings:

- “C3 New development shall not appear over-scaled in comparison to other corner buildings in the business centre.*
- C4 The design of corner buildings shall add variety and interest to the street.*
- C5 Each frontage of a corner building shall present as a main street frontage.*
- C6 May provide a contemporary interpretation of historical corner buildings, subject to satisfying criteria regarding building façade proportions.*
- C7 Corner buildings may strengthen the townscape character by increased height.*
- C8 Architectural features shall be introduced at street corners to increase the visual significance of the building and or provide a stronger vertical emphasis.*
- C9 New corner buildings can accentuate the prominence of their location by devices such as chamfers, increased height, and details to highlight the junction of wall planes.*
- C10 Buildings on corners are permitted some variation in height and setback for corner features along the building frontage on both streets to a maximum of 5 metres from the corner, subject to a satisfactory resolution of the form in terms of scale, proportion, materials and finishes.*
- C11 New corner buildings shall not incorporate significant cutbacks or cutaway corners.*
- C12 Corner properties will be required to dedicate splay corners to the public for road widening purposes and to improve sight distance at intersections for both vehicles and pedestrians. Splays will generally be as follows:*
 - 3 metres x 3 metres at street & street corner*
 - 2 metres x 2 metres at street & lane corner*
 - 2 metres x 2 metres at lane and lane corner.”*

As described above, the proposed building mass and height is generally consistent with the objectives and requirements of DCP 28. The development distributes the massing into three separate buildings which are appropriately articulated and front the three individual property boundaries of the subject site. The majority of the building mass is proposed along the Illawarra Road frontage of the site with the proposed building stepping down towards the rear of the site. This is considered to be an effective design response and compliments the corner block.

(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 development distributes the massing into three separate buildings which have appropriately active and articulated facades.

The glazed ground floor frontage of the commercial/retail area along Illawarra Road encourages an active façade and provides adequate surveillance of the area. The Illawarra Road frontage also, provides a residential entry along the south western corner of the site. Whilst the residential entry is located approximately 2 metres below the existing public footpath area, the development activates this area with the provision of a staircase directly accessible from the public footpath.

The majority of the Byrnes Street frontage of the proposed development also encourages an active frontage and provides surveillance of the area with dwelling terraces and living areas being visible from the street and communal pedestrian entries and communal open space areas located directly off the Byrnes Street frontage. However, a small portion of the Byrnes Street frontage, located towards the corner of Byrnes Street and Illawarra Road has an inactive street frontage, as it incorporates various roller doors and a stone wall design feature. This component of the proposed development spans less than 50% of the Byrnes Street frontage and incorporates a glazed residential foyer entry to active the area and as such is generally considered acceptable.

The proposed development appropriately articulates the building facades with balconies and contrasting finishes/materials such as the stone wall along Byrnes Street and the glazed ground floor façade along Illawarra Road.

The proposed building façade and treatment of the development is generally consistent with the objectives and requirements of DCP 28.

(vi) Construction of verandahs and balconies on new infill developments

DCP 28 outlines the following relevant controls with respect to the construction of verandahs and balconies on new infill developments:

“C16 Where a verandah, or balcony structure is proposed as part of a new redevelopment / infill proposal, it should complement the streetscape rather than try and be an exact copy of traditional forms, materials and embellishments.

C17 New verandah, or balcony structures should be of a contemporary design that is also compatible with the existing streetscape and in particular with its scale, colours and choice of materials.”

The development incorporates a number of protruding balconies/terraces and common terraces to service the residential units within the development. The balconies incorporated within the building form are considered to be acceptable.

(vii) Retail Frontage

DCP 28 outlines the following relevant controls with respect to retail frontages:

“O1 To ensure that a diversity of active street frontages is provided which are compatible with the scale, character and architectural treatment of the building as a whole.

O2 To preserve the surviving examples of original whole shop frontages and elements.

O3 To encourage a variety of relationships and openings between the shop and the street.

O4 To ensure that shops are accessible for everyone.

O5 To encourage new or replacement shop fronts to be compatible with the architectural style or period of the building to which they belong and the overall character of the business centre.

O6 To preserve the visual amenity of business centres outside normal trading hours without restricting security.”

The development proposes 663sqm of retail space, which is separated into two commercial/retail suites located on the upper ground floor level of the development. The commercial/retail suites are directly accessible from Illawarra Road and Byrnes Street, and encourage an active streetscape through the large shop front windows along Illawarra Road and Byrnes Street.

The proposed retail frontages of the development is generally consistent with the objectives and requirements of DCP 28

(viii) Disabled access and adaptable design

The issue of accessibility is discussed below in **Section 15** under the heading ‘*Marrickville Development Control Plan No. 31 – Equity of Access and Mobility*’.

(ix) Vehicular Access and Car Parking

The issue of vehicular access and car parking is discussed above in **Section 11** under heading ‘*Marrickville Development Control Plan No. 19 – Parking Strategy*’.

(x) 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 21st 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.”*

More than 65% of the proposed dwellings have passive solar design, as the majority of the living areas of the dwellings within Buildings A, B and C are located with the solar path.

The applicant advised that energy efficient fitting and fixtures will be installed. BASIX Certificates were submitted with the development application indicating that the proposed development meets the required scores. This is discussed further above in **Section 5** of this report under the heading *“State Environmental Planning Policy (Building Sustainability Index: BASIX)”*.

The applicant submitted shadow diagrams with the development application illustrating that the development would not create any significant overshadowing for surrounding properties within the area, as the shadowing cast by the proposal falls on the railway corridor from 9.00am to 3.00pm during mid-winter.

(xi) 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 applicant made the following submission in regards to visual and acoustic privacy:

“The site is isolated from neighbouring residential properties by Illawarra Road, Byrnes Street and the railway line. This means that there are no residential properties within 20 metres of the proposal and therefore the proposal meets the visual and acoustic separation requirements and there are no requirements for external privacy screens on the external facades of the building.

Fixed screens are utilised on the southern elevation of Building C to provide a level of visual and acoustic privacy from the railway.

Along the southern and western elevations of the walkways, timber screens are proposed to assist in any privacy impacts between the walkways and the units of the development.

Planter boxes and level differences are utilised to provide separation and privacy between the upper ground level units in Building C adjacent to the communal open space area.

In terms of aircraft and rail noise, an acoustic impact assessment has been prepared by Acoustic Logic Consultancy which identifies that the proposed development can comply with the required acoustic levels subject to the implementation of recommended construction measures.”

The proposed development is generally considered reasonable having regard to visual and acoustic privacy. Whilst, it is acknowledged that the proposed development does not comply with the building separation requirements under RFDC, it is considered the proposed development has incorporated suitable measures to avoid any adverse visual and acoustic privacy impacts within the development. This is discussed further in **Section 7** of this report under the heading *“State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65)”*.

It is also considered that the proposed development would not adversely impact on the privacy of surrounding residential development, as the site is located a minimum 20 metres from the nearest residential property.

(xii) 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.”*

The size of private open space provided for the proposed dwellings complies with the above-mentioned requirements. The private open space (balconies/terraces) provided are all in excess of 8sqm, with minimum depths of 2 metres. The areas of private open space have convenient access to the living areas of the respective dwellings and as such are capable as serving as an extension of the respective dwellings for relaxation, dining, entertainment and recreation. The development also proposes common terraces within Building C and a common open spaced area between Buildings A, B and C to further encourage relaxation, dining, entertainment and recreation. The proposed communal and private open spaced areas also provide adequate levels of privacy and solar access. The issue of privacy and overshadowing has been discussed in this Section under the headings ‘*Internal Layout – Solar Access, Ventilation, Energy and Water Efficiency*’; and ‘*Visual and Acoustic Privacy*’.

The proposed development is considered to satisfy the open space and landscaping controls contained in DCP 28.

14. Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls (DCP 29)

The subject site is located within an area identified as being subject to acid sulfate soil risk. This matter has been discussed under the heading “*Acid Sulfate Soils (Clause 57)*” in **Section 10** of this report.

15. Marrickville Development Control Plan No. 31 – Equity of Access and Mobility (DCP 31)

DCP 31 requires appropriate access to be provided throughout a mixed use development, in accordance with the Building Code of Australia and AS1428.2. Mixed use developments containing 10 or more dwellings are required to provide a minimum of one (1) adaptable dwelling for every 10 dwellings or part thereof, designed in accordance with AS4299 and one (1) parking space, designed in accordance with AS2890 Part 1, for every adaptable dwelling. DCP 31 also prescribes one (1) commercial/retail car space, designed in accordance with AS2890 Part 1, to be provided for each 33 car parking spaces or part thereof for the public from 10 to 500.

The proposal provides accessible entries, and continuous paths of travel throughout the mixed use development with the exception of the communal open space area located on the upper ground floor level. The proposal also provides accessible sanitary facilities for the commercial/retail suites in accordance with DCP 31. The communal open space area located on the upper ground floor level between Buildings A, B and C does not provide a continuous path of travel from the northern to southern side of the open space, however,

this can be easily achieved with minor design modifications. A condition should be imposed on any consent granted requiring the provision of a continuous path of travel within the communal open spaced area in accordance with the relevant Australian Standard.

Based on the 180 dwellings proposed, a minimum of 18 adaptable dwellings and 18 accessible car spaces are required to be provided. The proposal seeks to provide 18 adaptable dwellings and a total of 21 accessible car spaces; 18 accessible car spaces for the adaptable dwellings and three (3) car spaces for the combined residential visitor and commercial/retail area. The subject application was reviewed by Council's Community Development Worker - Disability Services who provided the following comments in regards to the adaptable dwelling layout:

"1. Circulation

In order to allay concerns regarding the functionality of the kitchen/dining area which were highlighted by the plans and possible furniture placements, it appears that the consultants have moved the diagram of the table and assured there is sufficient circulation along the kitchen bench. This is true if you move the furniture, my concern was always that there are limited options for furniture placement as a result of the angled walls that are inherent in the design of the adaptable dwellings because they are located at the corner of the respective buildings.

It's not simply a matter of how much overall space there is (square metre per unit) but where that space is. My contention in regards to the kitchen is about the usability of the dining space in a practical manner given its shape and the propensity for 'dead space' when used by a person with a disability.

*I realise the other units are smaller however their shape is more forgiving to a broader range of fit outs given the necessary circulation nodes that permit a truly accessible floor plan. My understanding was not that Council suggested a smaller unit would be better, rather a regular shaped room would better accommodate a kitchen **and** adjacent dining options.*

2. Balcony

Use of a threshold ramp is discouraged for the reasons I've expressed beforehand; excessive encroachment on usable (functional) space and practicality on carrying items to/from the area.

The proposed solution to raise the balcony floor surface to allow a more level and accessible passage is supported. However, it is strongly recommended that revised level should be a feature of the design and construction. This ensures the solution is applied and removes any complications otherwise transferred to the occupant in requesting later body corporate approval for such works and/or changes.

If it is the preferred solution of the applicant then it should be part of the design rather than a conceptual adaption that is possible at a later point. My experience with body corporate rules is that many features that would allow greater accessibility are obstructed and often denied outright as a result of inflexibility. This issue is one that can be easily fixed now and therefore recommend that it is at this stage.

3. Clothes Dryer

I appreciate the location submitted by the consultants for a clothes dryer at a more appropriate height. It must be remembered that a 9m long kitchen while seeming large needs to accommodate the storage of a kitchen half that length where height becomes a limiting factor for the user. Therefore while it may sound quite generous at first, the length must address a lot of issues beyond a regular kitchen design reliant on dual height cupboards. That notwithstanding it is considered there is reasonable scope here to include an additional item."

The proposed development complies with the numerical control of DCP 31. Council's Community Development Worker - Disability Services comments in regards to the functionality of the adaptable dwellings have been reviewed and considered.

The applicant has provided sufficient evidence demonstrating the adaptable dwellings have adequate circulation space and space to accommodate a clothes dryer in accordance with the relevant Australian Standards. A condition should be imposed on any consent.

In relation to the balconies of the adaptable dwellings it is considered that a condition should be imposed on any consent granted requiring amended plans to be submitted to and accepted by the Certifying Authority requiring balconies of the adaptable dwellings to have an external floor finish level consistent with the internal floor finish level of the dwellings and the overall development comply with the Building Code of Australia and the relevant Australian Standard.

16. Marrickville Development Control Plan No. 32 – Energy Smart Water Wise (DCP 32)

Clause 59 of MLEP 2001 and Marrickville Development Control Plan No. 32 - Energy Smart Water Wise requires consideration to be given to the energy, water and stormwater efficiency of any proposed development. The applicant submitted an *Ecologically Sustainable Design Assessment, Report No. 10-8601-R1, Revision 0, dated 10 March 2010, prepared by Heggies Pty Ltd* and *BCA Section J Energy Efficiency Assessment, Report No. 10-8601-R3, Revision 0, dated 10 March 2010, prepared by Heggies Pty Ltd* with the development application. The Ecologically Sustainable Design Assessment report made the following recommendations:

"11. SUMMARY AND RECOMMENDATIONS

The proposed mixed use development at Illawarra Road in Marrickville has been assessed against Marrickville Council DCP 32 and other relevant ESD.

The proposed residential component will incorporate passive and active energy saving measures such as operable windows to enhance natural ventilation where appropriate. A thermal comfort assessment of the proposed residential development has been carried out using BERS Pro software and BASIX tools to provide a quantitative estimate of the development's ESD performance.

Overall, positive Ecologically Sustainable Design (ESD) and energy efficiency features are currently in place in a number of design areas, incorporating the following:

- *High levels of cross-ventilation, natural light and solar access exposure;*
- *Incorporation of thermal mass;*
- *Light efficiency measures in the car parks using motion sensors;*

- Individual gas instantaneous hot water systems of 5 star greenhouse rating for all residential units;
- Daylight sensors in hallways; and
- Open space and landscaping.

The following recommendations have been made to improve upon the existing key sustainability elements of the proposed development:

- Building fabric as per ABSA Certificate;
- Appropriate glazing selection to cut excess solar heat gains;
- Line the inside of the roof with a minimum R4.0 insulation;
- 3-Star water and energy efficient dishwashers;
- A minimum 3-star energy efficient clothes dryers;
- A minimum 4-star energy efficient air-conditioning systems, refrigerators, and washing machines provided;
- Water efficient bathroom and kitchen fittings;
- Cyclist parking facilities for the apartments building; and
- A rainwater/stormwater catchment tank for landscaping.

Recommendations regarding mechanical ventilation system, domestic hot water, other appliances and operational waste etc. have also been made within the body of the report.

These features will help to achieve significant reductions in the energy and water required by the development both in building and operation, as well as ensuring that the residential units are more pleasant spaces to reside.

With the recommendations contained within this report we find that the proposed residential development is able to achieve the relevant BASIX certificate ratings:

- Water efficiency of 40% (target of 40%) and
- Energy Efficiency of 32% for Block A and B (target of 30%), and 26% for Block C (target 20%)

All commercial components including retail areas will comply with the BCA 2009 Section J Energy Efficiency as per recommendation in Heggies report 10-8601-R3.

It is recommended that ESD initiatives continue to be adopted during the detailed design stage of the project.”

It is noted that two BASIX Certificates were also submitted by the applicant, achieving full compliance with the BASIX commitments under State Environmental Planning Policy (Building Sustainability Index: BASIX). This is discussed further in **Section 5** of this report under the heading ‘*State Environmental Planning Policy (Building Sustainability Index: BASIX)*’.

A condition should be imposed on any consent granted requiring the development to comply with the recommendations of *Ecologically Sustainable Design Assessment, Report No. 10-8601-R1, Revision 0, dated 10 March 2010, prepared by Heggies Pty Ltd and BCA Section J Energy Efficiency Assessment, Report No. 10-8601-R3, Revision 0, dated 10 March 2010, prepared by Heggies Pty Ltd.*

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

The issue of community safety is discussed in **Section 10** above under the heading 'Community Safety (Clause 62)'.

18. View Corridors/View Sharing

Currently views of the city central business district and Centrepont Tower are available from some of the surrounding residential properties to the south of the site, particularly from the residential properties located along Schwebel Street. The image below demonstrates the direction of the city views enjoyed by the residential properties along Schwebel Street:



Image 24: Direction of the city views experienced by the residential properties along Schwebel Street.

The images below demonstrate the views from various residential properties along Schwebel Street:



Image 25: City views enjoyed from 2/2-6 Schwebel Street.

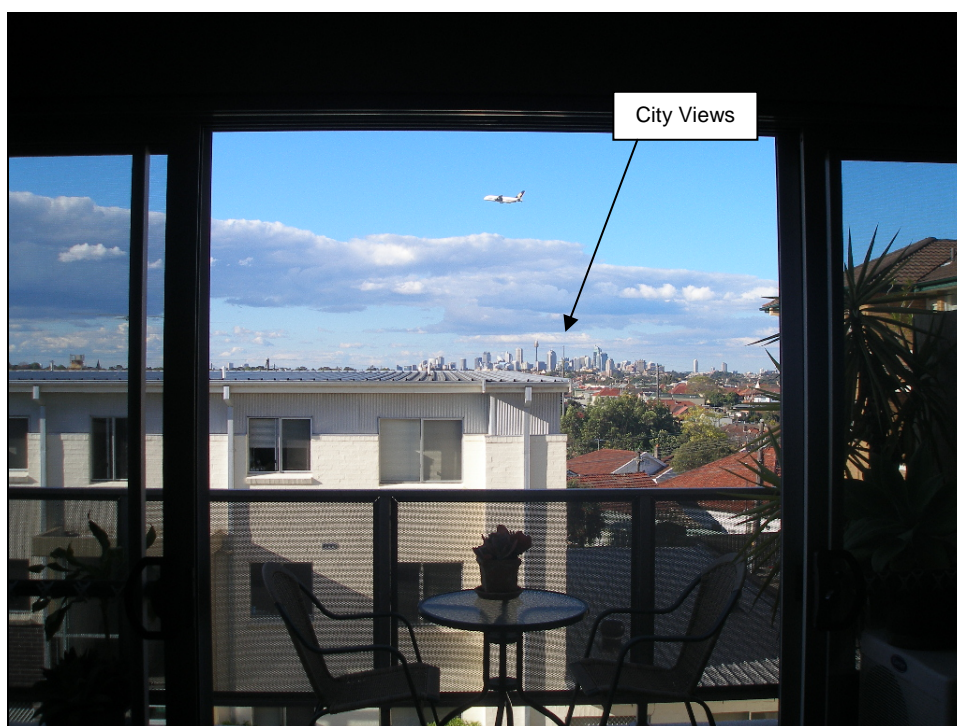


Image 26: City views enjoyed from 14/2-6 Schwebel Street.



Image 27: City views enjoyed from 2/8-10 Schwebel Street.



Image 28: City views enjoyed from 5/8-10 Schwebel Street.



Image 29: City views enjoyed from 7/8-10 Schwebel Street.

The principles of view sharing used by the Land and Environment Court are:

1. *Assessment of the value of the view lost. Water views are valued more highly than land views. Iconic views are valued more highly than land views. Whole views are valued more highly than partial views.*
2. *Protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The protection of a view when seated is also more difficult to protect than a view obtained from a standing position. An expectation that a side view across an adjoining property must be protected is generally unrealistic and given limited weight.*
3. *The impact on views from living areas (particularly kitchen areas) is more significant than from bedrooms or service areas.*
4. *A development that complies with all planning controls must be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. Where a complying proposal compromises a view corridor which is considered significant under the above tests, would a more skilful design which provides the applicant with the same development potential and amenity and reduces the impact on the views of neighbours.*

The applicant submitted the following view loss analysis which concluded the following:

“6.0 Conclusion

This view analysis report has undertaken an assessment of existing views from the dwellings Nos. 1, 3 and 5 Schwebel Street, and Units 7, 11 and 14 at 2-6 Schwebel Street, Marrickville and the likely impact of the proposed development.

This assessment has been undertaken in accordance with the NSW Land and Environment Court Planning Principles, as set down in the case of Tenacity Consulting v Warringah [2004] NSWLEC 140.

The view analysis has identified that the properties accessed enjoy an outlook or views in a northerly direction over the residential dwellings in Leofrene Street, the Bankstown railway line corridor and the site toward the Sydney CBD skyline on the horizon.

The photomontages demonstrate that the proposed development will result in the loss of outlook from some of the above properties, where they enjoy an outlook across part of the site. However, the montages demonstrate that the level of view loss is acceptable as iconic views of the CBD skyline on the horizon will be retained.

Whilst it is acknowledged that the proposal does not comply with the FSR control of MLEP 2001, strict compliance with the FSR control would not necessarily result in any improvement to views as the larger mass of the building has been located along the southern and eastern boundaries of the site so as to enable the building to transition down on the northern and eastern part of the site towards the Byrnes Road frontage.

In this respect, the overall impact of the development on views is considered to be minor and considered acceptable.”

The following photomontages were included in the view loss analysis:



Image 30: View montage from balcony of Unit 7/2-6 Schwebel Street, Marrickville

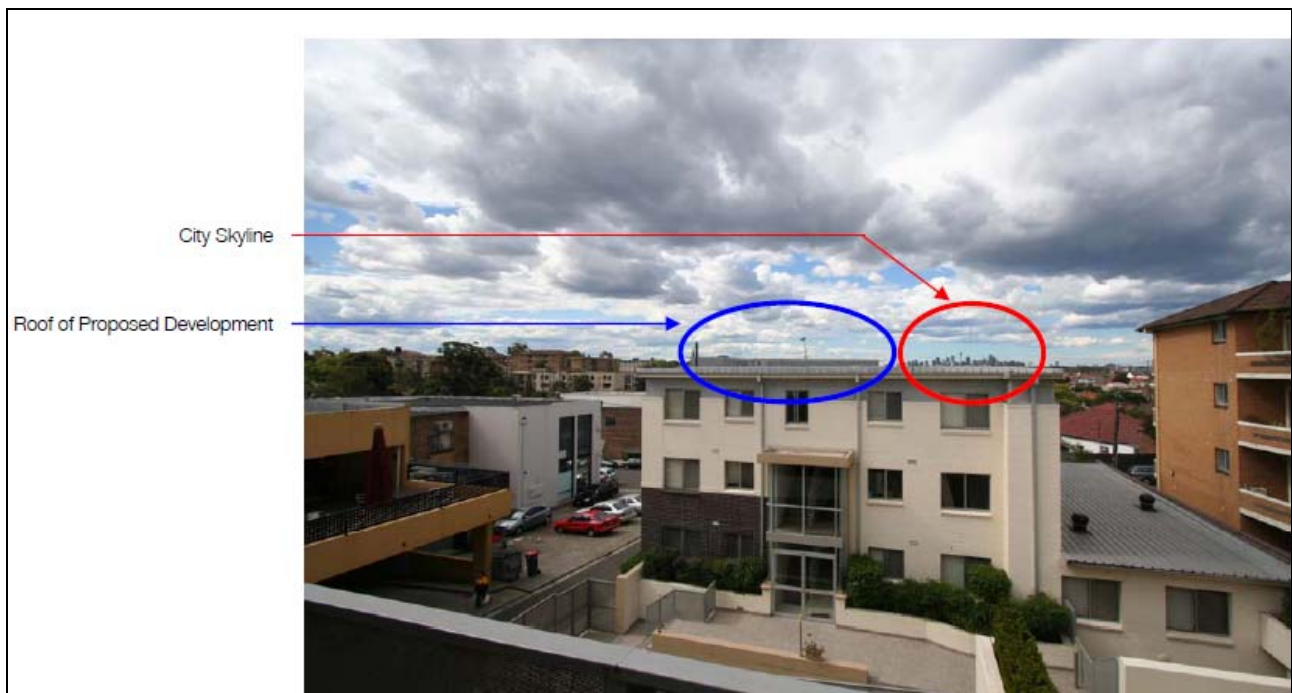


Image 31: View montage from balcony of Unit 14/2-6 Schwebel Street, Marrickville



Image 32: View montage from balcony of Unit 5/8-10 Schwebel Street, Marrickville



Image 33: View montage from balcony of Unit 7/8-10 Schwebel Street, Marrickville

Based on Council officer's estimates and in accordance with the view sharing principles used by the Land and Environment Court, the views enjoyed are considered be of valuable iconic views. The development proposes the majority of the building mass along the Illawarra Road frontage of the site with the proposed building stepping down towards the rear of the site. This is considered to be an appropriate design response and a significant improvement from the previous development proposed on the site, as it encourages view sharing for properties along Schwebel Street.

The proposed development will obstruct a small portion of the residential properties located along Schwebel Street, specifically ground floor residential development located along Schwebel Street. It is considered that it would be difficult to retain any view corridors for those properties and in light of this assessment the extent of view loss is considered acceptable.

19. Commercial/retail space

The subject application proposes approximately 663m² of retail floor space along the Illawarra Road frontage. A variety of commercial/retail uses could be accommodated within the proposed commercial/retail suites within the subject proposal. This is considered to be a practical use of space as it would activate the Illawarra Road street frontage of the development. No details have been provided in regards to the proposed use for the commercial/retail suites accompanying the application. A condition should be imposed on any consent granted requiring that development consent be obtained from Council prior to the occupation/use of the commercial/retail suites.

20. Referrals

(i) Strategic Planner

The subject application was reviewed by Council's Strategic Planner who provided the following comments:

"The draft Marrickville Village Centres Urban Design Study (Centres Study) includes the subject site as a site specific master planned precinct.

The Centres Study work provides the background for establishment of Height and FSR standards in the new LEP and controls for the DCP which are currently being prepared by Council.

At the Development and Environmental Services Committee meeting of 1 September 2009, Council resolved to move towards the public exhibition of the draft Marrickville Local Environmental Plan 2010 MLEP 2010 together with the consolidated DCP. The plans are close to being finalised and it is intended that they be placed on public exhibition in August. As the MLEP 2010 has not been on public exhibition the preliminary draft Marrickville Local Environmental Plan 2010 is not, a matter for consideration under Section 79C(1)(a)(ii) of the Act. It is therefore considered inappropriate and not in the public interest to make a determination based on the premise that the proposal complies with Centres Study proposal.

Notwithstanding the above the following is an assessment of the consistency of the proposal with the centres study.

If the building has been correctly calculated based on the GFA measurement under the Standard Instrument, stated as 2.11:1 in the accompanying Statement of Environmental Effects, then the proposed development is easily less than the 2.6:1 proposed maximum FSR in the Centres Study. This is largely because the current scheme has a much lower commercial component than the Centres Study Masterplan that created a significant proportion of the GFA.

More relevant is how compatible the massing of this proposed scheme is with the massing of the Masterplan. Block B is 7 storeys above the Illawarra Road street level, which is 1 storey more than the 6 storey Centres Study envelope, but matches the 7 storey massing in the south-western corner. Block A is 5 storeys above Byrnes Street, which matches the Masterplan. Block C is 8 storeys at the western end, then steps down to 7 storeys, and then down to 5 storeys at the eastern corner. This is respectively 1 storey greater for about half the length then matching at the eastern end to the 7, 6 and 5 storey envelope in the Centres Study Masterplan. The proposal now drops down at the eastern end to create a scale more compatible with the low residential scale opposite the site, compared to the 7 storeys scale in the previous DA scheme. Also Block C incorporates a better modulation and articulation of the massing as viewed from the north and from the south. Overall I consider the form responds generally to the Centres Study Masterplan envelope and the inconsistencies are generally acceptable as part of a high quality architectural response to the envelope controls for this prominent site, which is earmarked for a higher scaled landmark/gateway development for the Marrickville Commercial Centre.

The following matters are, however, raised as issues that need to be addressed:

- The location of the main residential entry has poor legibility, being in the south-western corner, which is further hidden by the solid balustrade/retaining wall on the edge of Illawarra Road and a number of trees. This new proposal still includes the indented building form and forecourt space between the pointed*

corners of Block A and B on the corner of Illawarra Road and Byrnes Street. This visually appears to be a major entry but is no longer required for the retail entry and only incorporates a very minor stair connection up to the main courtyard. This space now has limited purpose and concern is raised that it will become unused neglected space, which is a wasted opportunity for such a high exposure location. The small shrubs/trees in this area do not add to the usefulness of this space either. It is recommended that this be redesigned to incorporate at least one of the major residential entries. Alternatively it could be built to the boundary edges as a high quality retail shopfront. At the least it needs to be well connected to the adjoining retail space (ie glass/doors to the retail space to the south instead of a blank wall and be landscaped to function as good level outdoor dining space. A directly accessible entry could also be provided in the middle of Block B, where the street fronting footpath level relates directly to the internal courtyard level, which should all be on one level, not incorporate steps in the level as proposed.

- The presentation of the Illawarra Road / Byrnes Street corner element of the development at the upper levels also presents largely as blank masonry walls that does not activate this prominent corner. Given it has a northern orientation this elevation should incorporate balconies, that could be expressed in a similar way as the timber louvres on the corner.
- To reduce the dominance of the top level (7th storey) of Block B, the northern and southern wall should be recessed so the roof is expressed under a contrasting shadow and walls should incorporate lighter contrasting materials (ie not masonry, instead use materials such as glass, zincalume, metal louvres). While not as critical, this approach could also be taken to the top level (5th storey) of the western and eastern end of Block A.
- The Centres Study proposes a continuous widened footpath along Illawarra Road in front of this site to a widened station concourse and decked public space to the south. This represents a unique opportunity for the provision of activated public space including wide footpath dining areas and an attractive movement corridor around this dense pedestrian node. It is pleasing to see that the south-western corner of the development is now significantly setback to enable sight lines from the north towards the station. The street fronting footpath, however, has not been widened and commercial floor plates have not been designed in steps staying level with the footpath to create optimal commercial space, as per the Centres Study Masterplan and as discussed in previous Pre DA and DA referral comments. Instead the proposal maintains the sunken south-western corner that is visually disconnected from the footpath by the solid balustrade wall, trees and major change in level and maintains a 'bottle neck' between the proposed widened railway concourse and wide footpath in the north-western corner of the site.
- The commercial space in Block B facing Illawarra Road needs to incorporate more frequent tenancies/building entries to increase commercial frontage variety for street activation.
- The street elevation to Block A is dominated by deadening blank walls and vehicle entries. It is considered the loading area is not required for the minor retail space and would not be used given it's disconnection with the commercial lift. Instead the western end should incorporate a greater frontage of commercial space, consistent with the Centres Study Masterplan and the main

car park entry moved away from the corner. The loading dock space would be better utilised as a consolidated residential waste room. It would be much more practical to incorporate loading zones on the kerb side on Byrnes Street to accommodate residential removalist trucks and waste collection instead of deadening most of the street level frontage.

- The common landscaping area in front of terraces in the eastern end of Block C should be converted to enlarged private open spaces for ground level units and incorporate transparent balustrades to the street edge to create ownership, create activated edges to Byrnes Street and maximise street surveillance, instead of a high blank wall that is deadening to the street and will be vulnerable to graffiti.”*

Comment:

The above comments provided by Council's Strategic Planner have been reviewed and considered. The subject development provides two residential entries, a residential entry along the south western corner of the site within the Illawarra Road frontage and an additional entry from Byrnes Street frontage of the site. Whilst, it is acknowledged that the residential entry along the south western corner of the site is located approximately 2 metres below the existing public footpath area, the development activates this area with the provision of a staircase directly accessible from the public footpath.

A secondary entry is also proposed between Buildings A and B, however to utilise this area as a main building entry would require significant modifications to the development as there is approximately a 1.7 metre difference in the floor levels between the street and the communal upper ground level of the development.

The treatment of the area between Building A and B is considered to be appropriate as the location of the two separate buildings encourages transparency and visibility of Building C from the corner of Illawarra Road and Byrnes Street. Also, the contrasting façade treatment of the buildings provide appropriate articulation and contribute to the visual interest of the subject development within the area. The overall building massing and height of the development are considered to be appropriate as discussed within the body of this report.

A variety of commercial/retail uses can be accommodated within the proposed commercial/retail suites within Building B. The commercial/retail space within Block B facing Illawarra Road proposes a glazed shopfront which encourages an active façade. No details have been provided in regards to the proposed use for the commercial/retail suites accompanying the application. A condition should be imposed on any consent granted requiring that development consent be obtained from Council prior to the occupation/use of the commercial/retail suites.

The comments in regards to the widening of the footpath along Illawarra Road in front of the site to allow for a widened station concourse is considered to have merit. The application was referred to Railcorp, who did not require the dedication of an area at the front of the site to enable the widening of the concourse area for Marrickville Railway Station, as part of their concurrence to the proposed development.

The majority of the Byrnes Street frontage of the proposed development would encourage an active frontage and provide surveillance of the area with dwelling terraces and living areas being visible from the street and communal pedestrian entries and communal open space areas located directly off the Byrnes Street frontage. However, a small portion of the

Byrnes Street frontage, located towards the corner of Byrnes Street and Illawarra Road has an inactive street frontage, as it incorporates various roller doors and a stone wall design feature. This component of the proposed development spans less than 50% of the Byrnes Street frontage and incorporates a glazed residential foyer entry to active the area and as such is generally considered acceptable.

(ii) Community Services

The subject application was reviewed by Council's Community Services Section who provided the following comments:

"This proposal seeks to demolish the existing structures and construct a mixed commercial/residential building.

Possible Negative Social Impacts

Increased Activity

The site has been vacant for two years and those living in close proximity have become accustomed to a lack of activity from the site. Because such a long period of inactivity has passed, it is likely that some residents will have difficulty adapting to construction noise and to an inevitable increase in traffic movements associated with the proposed residential and commercial properties. Complaints regarding construction noise are to be expected.

Traffic

Currently, a common point of contention for residents living in the wider area surrounding Marrickville station involves trucks making deliveries to a supermarket approximately 1k from the proposed new development. Not only do residents feel strongly about the number of large delivery vehicles, an even greater concern is that trucks have minimal room for manoeuvring when making deliveries, and consequently nearby streets are used for turning. This situation has impacted on drivers, cyclists and pedestrians and has sensitised local residents regarding traffic issues associated with large new developments. Given the proximity of the supermarket to the proposed 359 Illawarra Road development, it is probable that those living nearby will have considerable apprehension about delivery vehicles servicing the new commercial premises. Should the development be approved, strong communication with local residents is advised throughout the construction stage to help alleviate anxiety. Already there are rumours as to the types of businesses that will occupy the commercial space and rumours have the potential to cause consternation.

Loss of Views

The proposed development at 359 Illawarra Road is in direct sight line of a cluster of Schwebel Street residences. Given that the new development is to be approximately 10 metres higher than the current structure, it is inevitable that occupants will experience a reduced view. The Statement of Environmental Effects submitted by SJB Planning refers to that company's view analysis of dwellings 1, 3 and 5 Schwebel Street, and Units 7, 11 and 14 at 2-6 Schwebel Street, Marrickville. The view analysis states that the proposal would result in a loss of outlook over the suburbs to the North, but would generally maintain the views of the city skyline.

The word "generally" is open to interpretation and it is unlikely that the impacted residents will agree with SJB Planning's assessment that the impact on views will be

minor. When a view changes, it can alter a resident's feeling about their own home and their community. In addition, worrying about possible decline in the value of one's property has the potential to impact negatively on the resident's mental health.

Potential Positive Social Impacts

Revitalisation: Commercial impact

This Illawarra Road site is very close to the Marrickville station and receives considerable pedestrian traffic between the station and Marrickville Road. The proposal seeks to have approximately 660 square meters of retail space facing Illawarra Road which has the potential to add vibrancy to this area.

Revitalisation: residential impact

The residential component of this development will provide:

- 17 studio units
- 73 one bedroom units
- 90 two bedroom units

Given this injection of new residents within walking distance of Marrickville's shopping strip, the development could provide a substantial new customer base in a shopping area that is commonly considered to be in decline.

Summary

This development will provide a more pleasing visual streetscape than the current building on site and has the potential to add vibrancy to a declining strip shopping area. The proximity to public transport will hopefully encourage residents within the new complex to use the train and bus services on offer and contribute to the LGA's sustainability objectives. Although a small number of residents will lose part of their view, this fact must be balanced by the contribution to revitalisation that this complex offers the Marrickville Road/Illawarra Road commercial area."

(iii) Marrickville Local Area Command

The subject application was referred to Marrickville Local Area Command of the NSW Police Force. At the time of writing this report the Police have not provided any comments in regards to the subject application.

21. 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 \$2,356,605.03 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.

22. Community Consultation

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. One hundred and fifteen (115) submissions and one (1) petition, containing a total of 1,114 signatures, were received which raised the following concerns:

(i) *Lack of sufficient off-street parking*

Concern was raised with the lack of off-street car parking provided by the development. This issue has been canvassed in the main body of the report.

(ii) Increase in traffic congestion

Concern was raised with the potential increase of traffic congestion in the area and the underestimation of traffic generation in the subject development application. The issue of traffic has been canvassed in the main body of the report. It is considered that the Traffic Report supplied by the applicant accompanying the subject application has satisfactorily addressed the issue of traffic. It is noted that the subject application and the Traffic Report, accompanying the subject application, were reviewed by the Local Traffic Planning and Advisory Committee who raised no objection to the proposal on traffic or parking grounds.

(iii) Noise

Concern was raised with likely noise impact and associated health risks (from cars, delivery vehicles, increased residents within area, close proximity of the development to freight lines, construction phase of development, etc) that would result from the development. The proposed mixed use development is permissible with Council's consent under the zoning provisions applying to the land. Appropriate conditions should be imposed on any consent granted in relation to noise emissions. The residential component of the development would also need to be noise attenuated to comply with the relevant standards. This issue has been canvassed in the main body of the report.

Potential noise generated by the close proximity of the development to the freight lines was addressed by the applicant in the *Environmental Noise and Vibration Assessment, Report No. 2009408/2502A/R3/BW, dated 10 March 2010 prepared by Acoustic Logic Consultancy*, which accompanied the subject application. The report concluded the following:

"The potential for additional noise impacting on the residential properties opposite the proposed development from noise reflections from the proposed development associated with train passbys has been investigated. The investigation revealed that noise will not increase at these residences by the development for the following reasons:

- 1. The majority of noise impacting on existing residences will result from direct noise generated by train passby, which will not change. Any noise reflecting from the proposed development would be required to travel a greater distance than the direct noise source and hence be attenuated such that existing noise levels will not increased.*
- 2. The broken nature of the proposed development façade (ie entry ways, floor slabs etc) will result in noise being diffused and further attenuated, rather than reflected as a plan reflection.*
- 3. As a significant source of train noise is associated with the contact of the wheel with the train tracks any noise reflected from the proposed development to the neighbours opposite the tracks will be screened by the train during the passby."*

From the above findings, it is concluded that the proposed development will not result in additional noise impacting on residential properties adjacent to the proposed development from noise reflections from the proposed development associated with train passbys.

(iv) Heritage

Concern was raised with the impact that the proposal would have on the heritage significance of the area, including the adjoining heritage item known as Marrickville Railway Station. This issue has been canvassed in the main body of the report.

(v) Site Contamination

Concern was raised with the potential site contamination of the subject property and the proposed additional geological studies of the subject site. The subject site was previously occupied by the former Marrickville RSL Club, a use which would be unlikely to generate site contamination. However, the site is located within an area identified as being subject to acid sulfate soil risk. This issue has been canvassed in the main body of the report.

(vi) Notification of the subject development application

Concern was raised with the lack of public consultation and the lack of residents formally notified of the proposed development with a letter drop. The application was advertised very widely, an on site notice was erected and 912 residents/property owners in the vicinity of the subject property were notified of the proposed development, by mail, in accordance with Council's Policy.

(vii) Infrastructure

Concern was raised with the intensification/overuse of the existing infrastructure within the area such as public transport including the inadequacy of trains on the Bankstown line, water, waste, drainage and the local road system. As part of the development assessment process the development application was referred to various external and internal bodies including Railcorp, Energy Australia, Council's Development Control Engineer and Council's Local Traffic Planning and Advisory Committee to assess the potential impact the proposal will have on the surrounding infrastructure. Those issues and the comments received from the various external and internal bodies have been discussed in the main body of the report.

(viii) Views

Concern was raised with the potential view loss which may occur as a consequence of the carrying out of the proposed development. The issue of view loss has been discussed within the main body of the report.

(ix) Property devaluation

Concern was raised with the potential depreciation of property values in the surrounding area as a result of the development. There is no evidence to support the assertion that the proposed development will have a negative effect on property values.

(x) Height

Concern was raised with the height of the proposal. This issue has been canvassed in the main body of the report.

(xi) Streetscape Appearance

Concern was raised with the streetscape/aesthetic appearance of the development within the streetscape. This issue has been canvassed in the main body of the report.

(xii) Urban Strategy.

Concern was raised that the proposed development was inconsistent with Council's Urban Strategy. It is considered that the proposed development is consistent with the principles of the Marrickville Urban Strategy as it encourages increased density along transport nodes.

(xiii) Aircraft Noise

Concern was raised with the aircraft noise. This issue has been canvassed within the main body of the report.

(xiv) Pedestrian Safety

Concern was raised in regards to pedestrian safety as a result of increased traffic movement in the area. As discussed in the body of the report, the subject application generally complies with the numerical controls of Marrickville Development Control Plan No. 19 – Parking Strategy. The development will not adversely affect the pedestrian safety in the area, as it is considered the local road network can sustain the demand generated by the proposed development. It is noted that the subject application was reviewed by the Local Traffic Planning and Advisory Committee who raised no objection to the proposal. The comments received from the Local Traffic Planning and Advisory Committee have been discussed in the main body of the report.

(xv) Population Density

Concern was raised with the increase in population density in the area resulting from the carrying out of the proposed development. The proposed development is a form of development permissible under the zoning provisions applying to the land. The intensity of development and density of the proposed development are considered acceptable for reasons canvassed in the body of the report.

(xvi) Retail and RSL trading hours

Concern was raised with the site potentially allowing an RSL which includes gambling and extensive trading hours. The subject application seeks approval to demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms.

The development does not seek to provide a licenced club. Development consent would be required to be obtained for the provision of a club on the subject land.

(xvii) Privacy

Concern was raised with potential privacy impacts on surrounding residential properties. It is considered that the proposed development would not adversely impact on the privacy of surrounding residential development, as the site is located a minimum 20 metres from the surrounding residential properties.

(xviii) Overshadowing

Concern was raised with the overshadowing cast by the proposal. This issue has been discussed within the main body of the report, noting that the proposed shadow impacts are acceptable and comply with the Council's relevant controls.

(xix) Waste

Concern was raised with the amount of waste generated by the proposed development and waste collection methods. The issue of waste collection has been discussed within the main body of the report.

(xx) Safety and security

Concern was raised with the perceived loss of public safety and security within the area as a direct consequence of the proposed development. There is no evidence to suggest that the proposed development will have a negative effect on the public safety and security of the area.

(xxi) Non-compliance with Council's policies

Concern was raised with the non-compliance of the development with Council's policies such as floor space ratio and building separation. The proposed development varies from a number of Council's policies and requirements. Those departures have been discussed within the main body of this report.

(xxii) Retail

Concern was raised that the retail component of the proposed development would have a negative impact on other commercial/retail businesses in the area due to the large retail space proposed. There is no evidence to suggest that the retail component of the proposed development would have a negative effect on the surrounding retail area and this is not a valid consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

The subject application proposes approximately 663m² of retail floor space along the Illawarra Road frontage. A variety of commercial/retail uses could be accommodated within the proposed commercial/retail suites within the subject proposal. This is considered to be a practical use of space as it would activate the Illawarra Road street frontage of the development.

(xxiii) Undesirable precedent

Concern was raised that the proposed development would set an undesirable precedent in the area and is unsuitable for the subject site. It is noted that all development proposals relating to individual sites must be assessed on individual merits.

The proposed development is a form of development permissible under the zoning provisions applying to the land. The intensity of development and density of the proposed development are considered acceptable for reasons canvassed within the main body of this report.

(xxiv) Excessive Bulk and Scale and Overdevelopment of Land

Concern was raised that the proposal is an overdevelopment of the site and has inappropriate bulk and scale. This issue has been canvassed within the main body of this report.

(xxv) Social Impact

Concern was raised that the proposal results inappropriate social impact. There is no evidence to suggest that the carrying out of the proposed development would have a negative social impact on the surrounding area.

(xxvi) Residential Units

Concern was raised that that the proposal has excessive amount of residential studio apartments. It is noted that Council has no specific control to limit the amount of residential units within a mixed use development. The development proposes 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings, which is considered to be of a sufficient mixture of apartments.

(xxvii) Landscaping

Concern was raised that the site provided minimal landscaping. The subject development generally complies with the landscaping requirements of DCP 28. This issue has been discussed within the main body of this report.

(xxviii) Draft Marrickville Local Environmental Plan used as justification

Concern was raised that that the Draft Marrickville Local Environmental Plan was used as justification for the various non-compliances of the development. This matter has been canvassed within the main body of this report.

(xxix) Flooding

Concern was raised that the subject site is flood affected and the proposed development would be subject to flooding and the subject application did not address the issue of flooding. This matter has been canvassed within the main body of this report.

(xxx) Commercial/Retail Suite use

Concern was raised with the lack of information accompanying the subject application in regards to the proposed commercial/retail uses.

The subject application proposes approximately 663m² of retail floor space along the Illawarra Road frontage. No details were provided in relation to the proposed use for the commercial/retail suites accompanying the application. A separate development application would be required to be submitted in the prescribed manner for Council's consideration for the usage of the commercial/retail component of the proposed development.

(xxxi) Railway Corridor

Concern was raised of the close proximity of the proposed development to the railway line and RailCorp not issuing concurrence. In accordance with Clauses 85 and 86 of State Environmental Planning Policy - (Infrastructure) 2007, the subject application was referred

to Railcorp for concurrence. Railcorp reviewed the application and granted their concurrence in a letter, dated 8 June 2010, subject to conditions.

(xxxii) Structural Adequacy of Railway Bridge

Concern was raised that the proposal may undermine structural adequacy of railway bridge on Illawarra Road, which currently appears to be damaged. . In accordance with Clauses 85 and 86 of State Environmental Planning Policy - (Infrastructure) 2007, the subject application was referred to Railcorp for concurrence. Railcorp reviewed the application and granted their concurrence in a letter, dated 8 June 2010, subject to conditions.

(xxxiii) Shadow Diagrams

Concern was raised with the lack of shadow diagrams lodged with the subject application. The applicant submitted shadow diagrams accompanying the subject application and which were considered to be acceptable.

(xxxiv) Tree Removal

Concern was raised with the proposed tree removal in close proximity to the railway line. This matter has been canvassed within the main body of this report.

(xxxv) Bicycle Spaces

Concern was raised with the lack of bicycle spaces provided within the proposal. The proposed development seeks to provide 39 bicycle spaces within the ground floor car parking area which is sufficient.

(xxxvi) Light Spillage

Concern was raised with additional light spillage from the proposed development. The proposed development is a form of development permissible under the zoning provisions applying to the land. It is considered that the proposed development will not emit excessive amount of additional lighting compared to the existing built forms within the area.

23. 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 a deferred commencement consent subject to the imposition of appropriate terms and conditions.

PART E - RECOMMENDATION

- A. THAT** the development application to demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms 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. Sydney Water's agreement to the relocation of its stormwater Channel shall be obtained in writing and a copy of such agreement including any requirements of Sydney Water shall be submitted to Council for its information.

Reason: To obtain Sydney Water's approval and requirements for the relocation of the Stormwater Channel.

2. The person acting on this consent shall investigate the existence of all of Council stormwater pipes traversing the development site and locate the pipes using survey and CCTV. Any proposed relocation of Council's stormwater pipes shall be approved by the Director, Infrastructure Services.

Reason: To protect Council's stormwater drainage system and to ensure any proposed relocation is acceptable.

3. RailCorp's current easements encumbering the development site are either to be extinguished or adjusted to RailCorp's satisfaction.

Should agreement be reached with RailCorp for the extinguishment of the easements then this condition has not been complied with until Council has been furnished with written correspondence from RailCorp of its agreement and evidence that the easement has been removed from title.

Should agreement be reached with RailCorp for the adjustment of the easements then this condition has not been complied with until Council has been furnished with written correspondence from RailCorp of its agreement to the adjustment and evidence that the easement has been adjusted on title.

Reason: To ensure compliance with RailCorp's concurrence.

4. The person acting on this consent is to submit a development application and obtain development approval for the demolition of the obsolete staircase within the rail corridor (and which forms part of the former RSL club).

The person acting on this consent is to obtain RailCorp's written agreement as to how and when this staircase is to be demolished (i.e. before or during the demolition of the former RSL club and whether a track possession is required).

This condition has not been complied with until RailCorp has been provided with a copy of the development approval to demolish the staircase and Council has been furnished with written correspondence from RailCorp of its agreement as to how and when the demolition is to occur.

Reason: To ensure compliance with RailCorp's concurrence.

5. The person acting on this consent is to enter into agreement with RailCorp regarding any boundary adjustment along the rail corridor common boundary (of which has been envisaged in this proposal's plans), and register the change in boundary on title.

This condition has not been complied with until Council has been furnished with written correspondence from RailCorp of its agreement to the boundary adjustment and evidence that the new boundary has been registered on title.

Reason: To ensure compliance with RailCorp's concurrence.

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:

Drawing No. and Issue	Plan/ Certificate Type	Date Issued	Prepared by	Date Submitted
DA – 1101, Issue C	Lower Ground Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1102, Issue C	Ground Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1103 Issue C	Upper Ground Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1104, Issue C	Level 1 Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1105, Issue C	Level 2 Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1106, Issue C	Level 3 Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1107, Issue C	Level 4 Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1108, Issue C	Level 5 Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1109, Issue C	Level 6 Floor Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1110, Issue C	Roof Plan	24 June 2010	Candalepas Associates	29 June 2010
DA – 1201, Issue C	Section AA	24 June 2010	Candalepas Associates	29 June 2010
DA – 1202, Issue C	Section BB	24 June 2010	Candalepas Associates	29 June 2010
DA – 1301, Issue C	Illawarra Road Elevation	24 June 2010	Candalepas Associates	29 June 2010
DA – 1302, Issue C	Byrnes Street Elevation	24 June 2010	Candalepas Associates	29 June 2010
DA – 1303, Issue C	South Elevation	24 June 2010	Candalepas Associates	29 June 2010
DA – 1503, Issue C	Waste Management	24 June 2010	Candalepas Associates	29 June 2010

	Plan			
101 Issue C	Landscape Plan Levels G1 & G3	17 March 2010	Site Image Landscape Architects	19 March 2010
501 Issue B	Landscape Details	17 March 2010	Site Image Landscape Architects	19 March 2010
502 Issue A	Landscape Outline Specification	17 March 2010	Site Image Landscape Architects	19 March 2010
H5500 Revision A	Hydraulic Services: Cover Sheet, Notes & Legend	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5501 Revision A	Hydraulic Services: Lower Ground Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5502 Revision A	Hydraulic Services: Ground Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5503 Revision A	Hydraulic Services: Upper Ground Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5504 Revision A	Hydraulic Services: Level 1 Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5505 Revision A	Hydraulic Services: Level 2 Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5506 Revision A	Hydraulic Services: Level 3 Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5507 Revision A	Hydraulic Services: Level 4 Stormwater	12 March 2010	J & M Group Pty Ltd	19 March 2010

	Concept Design			
H5508 Revision A	Hydraulic Services: Level 5 Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5509 Revision A	Hydraulic Services: Level 6 Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5510 Revision A	Hydraulic Services: Roof Level Stormwater Concept Design	12 March 2010	J & M Group Pty Ltd	19 March 2010
H5511 Revision A	Hydraulic Services: Detail Sheet	12 March 2010	J & M Group Pty Ltd	19 March 2010
-	Schedule of finishes	-	Candalepas Associates	19 March 2010
299424M_03	Basix Certificate: Block A & B	16 March 2010	The Department of Planning	19 March 2010
299432M_03	Basix Certificate: Block C	16 March 2010	The Department of Planning	19 March 2010
Report No. 2009408/250 2A/R3/BW	Environmental Noise and Vibration Assessment	10 March 2010	Acoustic Logic Consultancy	19 March 2010
	Waste Management Statement	June 2010	Momentum Project Group	19 March 2010
Report No. 10-8601-R1, Revision 0	Ecologically Sustainable Design Assessment	10 March 2010	Heggies Pty Ltd	19 March 2010
Report No. 10-8601-R3, Revision 0	BCA Section J Energy Efficiency Assessment	10 March 2010	Heggies Pty Ltd	19 March 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. Site investigation works being carried out for the site in accordance with Stage 1 Environmental Site Assessment, Reference: E22940K-RPT Final, dated June 2009, prepared by Environmental Investigation Services. 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 the ground floor commercial/retail suites prior to the occupation of those parts 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 a single dwelling house.

6. 168 off-street car parking spaces and 39 bicycle spaces 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. 140 car spaces being designated to the residential dwellings and 28 shared car spaces being designated to the residential visitor and commercial/retail uses.

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 re used exclusively for parking.

8. All designated pedestrian pathways/walkways within the lower ground floor and ground floor car parking areas being clearly marked and maintained at all times.

Reason: To ensure pedestrian safety.

9. A minimum of two (2) car parking spaces required as part of the total parking required being provided within the ground floor residential visitor/commercial retail car parking area, and marked as a "shared hire care only" car parking space.

Reason: To ensure that a designated car share car parking spaces are provided and marked accordingly and that members are advised and directed to such parking.

10. A minimum of eighteen (18) adaptable dwellings 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. All loading and unloading in connection with the use being carried out from the loading/unloading dock and the short stay loading/unloading spaces within the premises. The loading/unloading dock and spaces shall be maintained at all times for the loading and unloading of goods and being used exclusively for that purpose and not for storage or any other purpose.

Reason: To ensure adequate loading and unloading facilities are available at all times for the use of the premises.

17. Trucks servicing the site being limited in size (maximum) to Medium Rigid Vehicles as defined in AS2890.2.-2002 - Off-street commercial vehicle facilities.

Reason: To ensure that service vehicles are able to manoeuvre through the Byrnes Street and Illawarra Road intersection and to ensure that service vehicles are able to access the proposed loading dock.

18. The loading/unloading dock accessed from Byrnes Street being of an appropriate size to accommodate a Medium Rigid Vehicles, as defined in AS2890.2.-2002 - Off-street commercial vehicle facilities.
Reason: To ensure that service vehicles are able to manoeuvre through the Byrnes Street and Illawarra Road intersection and to ensure that service vehicles are able to access the proposed loading dock.
19. The loading/unloading dock accessed from Byrnes Street being of an appropriate size to accommodate a Council garbage truck for residential waste collection.
Reason: To ensure the proposed loading/unloading dock within the premises has the capacity to accommodate a Council garbage truck to enable residential waste collection to be carried out from within the premises in the future.
20. 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.
21. The proposed awning shall be of cantilever type and be set back at least 600mm from the kerb line. 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 at no cost to Council.
Reason: To ensure the awning complies with Council requirements.
22. The person acting on the consent liaise 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.
23. Energy Australia has advised that the proposed development requires the provision of a new electrical substation. The electrical substation and associated infrastructure shall be incorporated wholly within the development site. The new electrical substation is required to be established prior to the existing electrical substation being removed from the subject site. The new electrical substation must have the capacity to accommodate the loads of the existing electrical substation and the new load of the proposed development. Before proceeding with the development, the person acting on the consent is directed to contact Energy Australia directly with regard to the possible provision of such an installation on the property.
Reason: To comply with Energy Australia's requirements and to provide for the existing and potential electrical power distribution for this development and for the area.
24. No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.
Reason: To protect existing trees.
25. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
Reason: To protect the environment.
26. Approval is given for the following works to be undertaken to trees on the site:

Schedule

Tree/location	Approved works
Trees 14 - 19: <i>Casuarina cunninghamiana</i> (River She Oak) located along the Illawarra Road frontage of the site.	Removal.
Trees 22 – 24: <i>Ficus benjamina</i> (Weeping Fig) located on the southern side of the site.	Removal.
Tree 29: <i>Callistemon viminalis</i> (Weeping Bottlebrush) located on the northern side of the site.	Removal.

Removal or pruning of any other tree on the site is not approved.

Reason: To ensure that the development is in accordance with the determination of Council.

27. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate.

Reason: To protect existing trees.

28. Canopy pruning of the following trees if necessary to accommodate the approved building works shall be undertaken by, or directly supervised by, an experienced Arborist - for the purpose of this report a suitably qualified professional shall have as a minimum, Level 5 (Diploma) certification in Arboriculture under the Australian Qualification Framework (AQF).

Schedule	
Tree/location	Approved works
Trees 1-13: <i>Casuarina cunninghamiana</i> (River She Oak) located along the adjacent railway corridor to the south of the site.	Minor pruning to clear building works if required.

Pruning is limited to those branches that will come into direct contact with the built structure. All pruning shall be carried out to Sections 5, 6 and 7.3.3 of the Australian Standard 4373 - 2007 Pruning of Amenity Trees.

Where a tree's canopy or root system has developed across property boundaries, consent to undertake works on the tree does not permit a person acting on the consent to trespass on adjacent lands. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner of a tree must be notified. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent shall meet the requirements of the Access to Neighbouring Lands Act 2000 to gain access.

Reason: To ensure trespass laws are not breached and to adhere to Council's Tree Preservation Order 2007.

29. The existing retaining wall and associated footing located along the southern boundary of the site and to the north of Trees 1-13 shall remain in its entirety and in situ. No works shall be undertaken between the wall and the trees.

Reason: To protect existing trees.

30. Super advanced street trees shall be planted, at no cost to Council, in the footpath on the Illawarra Road and Byrnes Street frontages of the site. Details relating to quantities, species, container size at planting, soil preparation, 'cut out' dimensions and locations, mulch and guards etc will be provided by Council's Tree Management Officer (Contact: ☎9335 2242). Details as provided shall be shown on an amended

Landscape Plan and shall be submitted to Council for approval. The plan shall also show details as to the location of power poles and overhead power lines, manholes and subterranean services and utilities. The street trees shall be stock that is grown to the standard identified in the NATSPEC Guide: Specifying Trees and shall be inspected and approved by Council's Tree Management Officer prior to being planted.

Reason: To provide appropriate landscaping within the streetscape.

31. The removal of Trees 20 and 21 *Callistemon viminalis* (Weeping Bottlebrush) from Council's nature strip shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$10,000,000. Following removal of Trees 20 and 21 *Callistemon viminalis* (Weeping Bottlebrush) from Council's nature strip, the area shall be rehabilitated to the satisfaction of Council's Development Engineer at no cost to Council.

Reason: To protect the streetscape.

32. The canopy replenishment trees to be planted within the site shall be maintained in a healthy and vigorous condition until they attain a height of 5 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain/improve the treed character of the area.

33. During all stages of the development, environmental legislation and regulations will be complied with.

Reason: To ensure compliance with RailCorp's concurrence.

34. During all stages of the development extreme care shall be taken to prevent environmental harm within railway corridor. Any form of environmental harm to areas within the railway corridor or legislative non-compliance that arises as a consequence of the development activities shall remain the full responsibility of the person acting on this consent.

Reason: To ensure compliance with RailCorp's concurrence.

35. During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the person acting on this consent.

Reason: To ensure compliance with RailCorp's concurrence.

36. Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from RailCorp.

Reason: To ensure compliance with RailCorp's concurrence.

37. Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.

Reason: To ensure compliance with RailCorp's concurrence.

38. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with RailCorp.

Reason: To ensure compliance with RailCorp's concurrence.

39. Where the person acting on this consent proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from RailCorp confirming that its approval has been granted.
Reason: To ensure compliance with RailCorp's concurrence.
40. The person acting on this consent shall provide details of any intended encroachment into RailCorp's easement or RailCorp owned lands, for review and approval by RailCorp.
Reason: To ensure compliance with RailCorp's concurrence.
41. 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 Building Code of Australia.

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.

42. 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.

43. 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.

44. 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.

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

46. 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.

47. 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.

48. 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 Infrastructure Services Division.

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

49. 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.

50. 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.

51. 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.

52. 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.

53. 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.

54. 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, proposed hoarding or scaffolding to protect the public, 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.

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

55. 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.

56. To preserve the following trees, no work shall commence until the area beneath their canopies are fenced off at the specified radius from the trunks to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Schedule	
Tree/location	Radius in metres
Trees 1-13: <i>Casuarina cunninghamiana</i> (River She Oak) located along the adjacent railway corridor to the south of the site.	Fence to be erected along the top of the existing retaining wall located between the trees and the subject site.

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

Reason: To protect existing trees during construction phase.

57. Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metre intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:
- tree protection zone.
 - this fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted.
 - any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report.
 - the arborist's report shall provide proof that no other alternative is available.
 - the arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council.
 - The name, address and telephone number of the developer.

Reason: To protect existing trees during the construction phase.

58. Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

Reason: To protect existing trees during the construction phase.

59. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the person acting on this consent. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.

Reason: To ensure compliance with RailCorp's concurrence.

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.

60. 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.

61. 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 the Certifying Authority'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.

62. 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 \$126,000 can be made at the Council Offices. This fee has been based on an estimated cost of works of \$36,000,000.

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.

63. 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 and all retail tenancies on the upper ground floor, residential entrance lobbies and all car parking areas, complying with AS 1428.1- 2009 'Design for access and mobility';
 - b) Accessible toilets in the retail components of the development complying with AS 1428.1- 2009 'Design for access and mobility';
 - c) The lift design shall comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement;
 - d) A minimum of eighteen (18) adaptable dwellings complying with AS 4299-1995 "Adaptable Housing" (details are to include circulation space around kitchen facilities, functionality of the balconies and access to clothes drying facilities);
 - e) A minimum of nineteen (19) car parking spaces being provided for people with a disability that are directly accessible to the entrance to the building. The subject

car parking spaces 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 car parking';

- f) A continuous path of travel be provided from the northern to the southern side of the communal open space on the upper ground floor plan between Buildings A, B and C in accordance with AS 1428.1- 2009 'Design for access and mobility'; and
- g) The balconies of the adaptable dwellings having an external floor finish level consistent with the internal floor finish level of the dwellings.

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

64. Before the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
101 C	Site Image	17.03.2010

The above landscape plan(s) shall be amended in the following ways:

Super advanced street trees shall be planted, at no cost to Council, in the footpath on the Illawarra Road and Byrnes Street frontages of the site. Details relating to quantities, species, container size at planting, soil preparation, 'cut out' dimensions and locations, mulch and guards etc will be provided by Council's Tree Management Officer (Contact: 9335 2242). Details as provided shall be shown on an amended Landscape Plan and shall be submitted to Council for approval. The plan shall also show details as to the location of power poles and overhead power lines, manholes and subterranean services and utilities. The street trees shall be stock that is grown to the standard identified in the NATSPEC Guide: Specifying Trees and shall be inspected and approved by Council's Tree Management Officer prior to being planted.

Reason: To ensure adequate landscaping of the site.

65. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Note: plan detailing the routes of these services and trees protected under the Tree Preservation Order, shall be submitted to the Principal Certifying Authority.

Reason: To ensure the protection of trees.

66. Waste storage areas, waste collection points, clothes drying areas and letter boxes being provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure adequate mail collection facilities are provided.

67. 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.

68. Lighting details of the residential entry areas along Illawarra Road and Byrnes Street and all public areas within the development being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

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

69. Noise attenuation measures being incorporated into the development in accordance with the recommendations contained in the Environmental Noise and Vibration Assessment Report prepared by Acoustic Logic Consultancy 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 the adjacent rail corridor.

70. 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.

71. A total monetary contribution of \$2,356,605.03 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) \$1,151,963.50 Section 94 Contributions Plan 2004 for Marrickville Area - Open Space, Park Infrastructure and Sports Facilities;
- b) Council wide projects:
 - (i) \$164,566.22 Cooks River;
 - (ii) \$164,566.22 Tempe Reserve/Tempe Lands;
 - (iii) \$82,283.11 Civic Centre; and
 - (iv) \$82,283.11 Street Tree Master Plan.
- c) \$397,781.84 Public Libraries and Community Recreation Facilities;
- d) \$257,928.14 Section 94 Contributions Plan 2004 for Marrickville Area - Traffic Management; and
- e) \$55,232.92 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 2010/2011 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.

72. 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.

73. The foundations of the proposed development adjacent to Sydney Water's or Council's stormwater systems 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.

74. A strip of land 1.5 metres wide and variable towards the eastern end of the site at the Byrnes Street and O'Hara Street intersection necessary to provide a continuation of a 1.5 metre public footpath shall be dedicated to the public at no cost to Council before the issue of a Construction Certificate.

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

75. A detailed loading dock management plan consistent with that proposed in the Traffic Study submitted by Transport and Traffic Planning Associates shall be implemented for the use of the loading dock. A copy of the proposed loading dock management plan shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure the use and operation of the loading dock is adequately managed.

76. Marrickville Development Control Plan No. 32 - Energy Smart Water Wise requires all sites greater than 1,000sqm to provide a Comprehensive Water Cycle Management Plan. Details and calculations of proposed stormwater harvesting and re-use system being submitted to and approved by Council before the issue of a Construction Certificate. The plan shall include an assessment of the following:

- a) Estimates of all water, wastewater and stormwater flows;
- b) How demand for water and discharge will be minimised;
- c) An analysis of the potential for the treatment and re-use of stormwater on the development site. The treatment of stormwater shall be integrated into the landscaped elements of the site; and
- d) A strategy for improving stormwater quality.

Reason: To ensure water and stormwater efficiency measures are implemented on the site.

77. Detailed plans of the proposed water re-use system to be used for toilet flushing and irrigation including the tanks, the supply and the reticulation system shall be 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.

78. Plans, details and calculations of an On Site Detention system in accordance with Marrickville Council Stormwater and On Site Detention Code, being submitted to Council's Development Engineer for approval before the issue of a Construction Certificate. Details shall include:

- a) The on site detention system shall be designed for all storm events from the 1 in 2 year storm to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions;
- b) Storage for the 1 in 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) For sites greater than 1,000sqm the allowable discharge will be limited to the equivalent fully pervious discharges for the site area;
- e) Details of the Height v Storage and Height v Discharge relationships; and
- f) Details of the 1 in 100 year overflow route in case of failure/blockage of the system.

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.

79. Detailed construction plans approved by Sydney Water of the relocation of Sydney Water's stormwater channel being submitted to Council before the issue of a Construction Certificate. The plans shall include details of the calculated Top Water Level profile (for a 1 in 100 year storm event) along the length of the stormwater channel. All penetrations into the building adjacent to the stormwater channel shall be located 500mm above the Top Water Level profile.

Reason: To ensure the site is protected from the 1 in 100 year flood from Sydney Water's stormwater channel.

80. The floor levels of all habitable areas/rooms of the development including the ramp and all entries to the underground carpark are to be set at a minimum height of RL 6.75m AHD which represents 500mm freeboard above the 100 year flood level as determined by the Hydraulic Impact Assessment (Issue 3) prepared by VDM Consulting dated May 2010 in accordance with details to be submitted to Council's satisfaction before the issue of a Construction Certificate.

Reason: To ensure the development is protected from flooding during a 1 in 100 year storm event.

81. Details of an adequate Flood Management Plan for the safe evacuation of the basement car parks including flood warning systems and signage shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure the safe and orderly evacuation in case of flood inundation of the basement car parks.

82. The layout of the proposed carparking and loading dock 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, AS2890.2-2002 and AS2890.6-2009 so that:-
- a) Ramps grades shall be designed in accordance with Clause 2.5.3 of AS2890.1-2004. Grade changes on the ramp shall be checked using the method at Appendix C of the Standard;
 - b) In accordance with Clause 3.3 of AS2890.1-2004 the access driveways shall have a maximum grade at the property boundary not exceeding 1 in 20 within 6 metres of the property boundary;
 - c) Details of any queuing areas or control points within the carpark such as boom gates or roller doors shall be detailed and designed so as to comply with Clauses 3.4 and 3.3 of AS2890.1-2004;
 - d) Circulation within the carpark shall be checked using the appropriate turning circle templates nominated by Clause 2.5.2 (c) of AS2890.1-2004;
 - e) Entry and exit to the loading dock as well as manoeuvrability within the loading dock area shall be designed using the swept path template (with appropriate clearances) for a Medium Rigid Vehicle in accordance with AS2890.2-2002;
 - f) The design of the driveway exits from the carpark and loading dock shall comply with the sight distance requirements of AS2890.1-2004; and
 - g) The design of car spaces for people with disabilities shall comply with the requirements of AS2890.6-2009 (Parking Facilities, Part 6: Off-street car parking for people with disabilities). This shall include installation of bollards as per Fig 2.2 and Fig 2.3 of the Standard.

Full details of compliance with the above requirements including dimensioned plans and the use of turning templates shall be submitted to and accepted by Council before the issue of a Construction Certificate.

Reason: To ensure that vehicular access and carparking are designed in accordance with AS2890.1-2004, AS2890.2-2002 and AS2890.6-2009

83. In order to provide satisfactory vehicular and pedestrian access and drainage adjacent to the site, the following road, drainage 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) Reconstruction of the existing footpaths for the full frontage of the site in Illawarra Road and Byrnes in suitable decorative materials and to a detail to be approved by Council. The footpath shall be constructed with a maximum cross fall of 3%;
 - b) Reconstruction of the kerb and gutter in Byrnes Street;
 - c) Re-alignment and construction of a 1.5 metre wide footpath at the eastern end of the site to maintain a continuous public footpath adjacent to the site;

- d) Construction of vehicular crossings and the removal of all redundant vehicular crossings to the site of the proposed development;
- e) Any necessary relocation of Council Stormwater lines traversing the site;
- f) 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
- g) 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 Council's Development Engineer.

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.

84. Payment of a Bond to Marrickville Council, in the sum of \$140,000 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.

85. The footpath alignment levels at the boundary shall be set at top of the adjacent kerb height plus 3 percent. A footpath level alignment plan detailing footpath alignment levels at the boundary in particular at every vehicular and pedestrian entry shall be submitted to and approved by Council before the issue of a Construction Certificate.

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 requirements.

86. All excavation and construction works are to be undertaken in accordance with the methodology and recommendations detailed in the Geotechnical Report prepared by Jeffery and Katauskas Pty Ltd dated 18 June 2009 and Rail Risk Assessment by Connell Wagner dated 4 August 2009 and in accordance with the submitted development application plans, subject to the following amendments:

- a) that the sheet pile wall option is adopted during the construction of the permanent reinforced concrete retaining wall;

- b) all excavation works along rail corridor shall be supervised by an experienced geotechnical engineer; and
- c) the measures detailed in the Jeffery Katauskas and Connell Wagner reports, and RailCorp's amendments have been incorporated into the construction drawings and specifications. Prior to the commencement of works the Principal Certifying Authority shall provide verification to RailCorp that this condition has been complied with.

Details of the above amendments shall be provided to the Certifying Authority before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

- 87. The person acting on this consent shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of RailCorp's representative before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

- 88. Before the issue of a Construction Certificate the person acting on this consent shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signaling. Should rail services be identified within the subject development site the person acting on this consent must discuss with RailCorp as to whether these services are to be relocated or incorporated within the development site.

Reason: To ensure compliance with RailCorp's concurrence.

- 89. An acoustic assessment being submitted to Council's satisfaction before the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

Reason: To ensure compliance with RailCorp's concurrence.

- 90. Before the issue of a Construction Certificate the person acting on this consent is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The person acting on this consent must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

- 91. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that face the rail corridor, the person acting on this consent is required to install measures (eg awning windows, louvres, enclosed balconies etc) which prevent the throwing of objects onto the rail corridor. Measures to be implemented are to be installed and indicated on development plans to the satisfaction of Certifying Authority before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

- 92. Before the issue of a Construction Certificate the person acting on this consent is to provide RailCorp with a report from a qualified structural engineer demonstrating that the structural design of the development satisfies the requirements of AS5100. The Certifying Authority must not issue the Construction Certificate until it has received

written confirmation from RailCorp that it has received this report and the Certifying Authority has also confirmed that the measures recommended in engineer's report have been indicated on the Construction Certificate Drawings.

Reason: To ensure compliance with RailCorp's concurrence.

93. The person acting on this consent appears to need track possessions (the stopping of trains running on adjacent tracks) and/or power outages (shutting of power to RailCorp's facilities) to be able to undertake the proposed construction and installation work. This will require the person acting on this consent to enter into a Deed with RailCorp, enabling this work to be planned and to proceed in a safe and controlled manner. In this regard the person acting on this consent should be referred to the Rail Corridor Management Group (RCMG) for further details. The Deed agreement is to be provided before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

94. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of RailCorp. Written confirmation is required to be received from RailCorp confirming compliance with this condition before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

95. Before the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to RailCorp for review and comment on the impacts on rail corridor. Written confirmation is required to be received from RailCorp confirming compliance with this condition before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

96. Before the issue of a Construction Certificate the person acting on this consent is to submit to RailCorp a plan showing all craneage and other aerial operations for the development and must comply with all RailCorp requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

Reason: To ensure compliance with RailCorp's concurrence.

97. To improve the comfort of future occupants, the landscaping and fencing in the plan is to be designed to screen views of the rail tracks and reduce exposure to passing trains. Landscaping and fencing along the rail corridor shall meet RailCorp's satisfaction. Written confirmation is required to be received from RailCorp confirming compliance with this condition before the issue of a Construction Certificate.

Reason: To ensure compliance with RailCorp's concurrence.

SITE WORKS

98. 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.

99. 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.

100. 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.

101. 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 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.

102. 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.

103. 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.

104. 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 shall:

- 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.

105. 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.

106. 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.

107. The disposal of contaminated soil being carried out in accordance with the requirements of the New South Wales Department of Environment, Climate Change and Water.

Reason: To provide for correct disposal of wastes.

108. A certificate of survey from a registered land surveyor shall be submitted to the PCA upon excavation of the site and prior to any pouring of concrete for piling and / or footings to verify that the structures will not encroach on the allotment boundaries.

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

109. A clear unobstructed path of travel of not less than 1000mm 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.

110. 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. If the site stormwater is proposed to be connected to Sydney Water's stormwater drainage system then the connection shall comply with all of the requirements of Sydney Water.

Reason: To provide for adequate site drainage.

111. 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.

112. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.

Reason: To ensure compliance with RailCorp's concurrence.

BEFORE OCCUPATION OF THE BUILDING

113. 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.

114. 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.

115. 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.

116. A covenant being registered on the title of the land, before the issue of an Occupation Certificate, in relation to the provision of a minimum of 2 designated car share car parking spaces (within the ground floor residential visitor/commercial retail car parking area), and the circulation aisle to access such spaces, in accordance with the condition in the “General” Section of this consent, to create the designated car share car parking spaces and provide legal access to such spaces) to Council, to facilitate the operation of the approved car share arrangement.

Reason: To create legal access to the designated off-street car parking spaces for car share use.

117. A Section 73 Compliance Certificate from Sydney Water being submitted to Council before occupation of the premises.

Reason: To comply with the requirements of that Act.

118. 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.

119. (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 the Certifying Authority’s satisfaction by an accredited Acoustics Consultant, certifying that the final construction meets AS2021- 2000 and the requirements contained in State Environmental Planning Policy (Infrastructure) 2007 in relation to interior design sound levels 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 the adjacent rail corridor and aircraft and to ensure that the proposed noise attenuation measures incorporated into the dwellings satisfactorily comply with the relevant sections of State Environmental Planning Policy (Infrastructure) 2007 and Australian Standard 2021-2000.

120. Before the issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the planting of street trees, have been undertaken in accordance with the approved plans and conditions of consent.
Reason: To ensure that the landscape works are consistent with the development consent.
121. 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.
122. 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.
123. 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 the 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.
124. 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 that the person acting on this consent completes all required work.
125. 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 Marrickville 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.
126. An easement for drainage 2.5 metres wide in favour of Marrickville Council, being created over the full length of the nominal centreline of the Council controlled drainage system within the site of the proposed development, at no cost to Council. A dealing number for registration of the easement shall be obtained from the NSW Department of Lands before occupation of the site.
Reason: To provide for and protect the rights of Council to drain through the site of the proposed development.
127. All instruments under Section 88B of the Conveyancing 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.

128. A linen plan of survey detailing any easements, land dedications, splay corners and rights-of-way together with associated documents shall be lodged with the Land and Property Information Office at no cost to Council. A dealing number for registration of the easement shall be obtained from the Land Property Information Office before issue of the Construction Certificate.

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

129. 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.

130. 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 Development Engineer) the replacement kerb shall also be in stone.

Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.

131. 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.

132. 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.

133. The person acting on this consent shall, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the person acting on this consent 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 this consent.

Reason: To ensure all drainage works are maintained within a reasonable time limit during a 12 month maintenance period.

134. The person acting on this consent shall provide security, in a manner satisfactory to Council, for the proper maintenance of the road/drainage works in an amount of \$11,000 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.

135. The street lighting in Byrnes Street being upgraded to comply with the P4 category of lighting in accordance with AS1158.3.1:2005 and at no cost to Council. The lighting shall be designed by a suitably experienced lighting engineer and the design shall also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light. Plans shall be submitted to and approved by Council before submission to Energy Australia for implementation.

Reason: To ensure appropriate lighting is provided to create a safe environment and to protect the amenity of the surrounding neighbourhood from the emission of light.

136. Before the issue of a Occupation Certificate the person acting on this consent shall obtain from Council's Development Engineer a Certificate(s) of Satisfactory Completion 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's 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.

137. 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.

138. 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.

139. The existing stone kerb on Illawarra Road 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.

140. The person acting on the consent must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to RailCorp prior to the issuing of the Occupancy Certificate. Written

confirmation is required to be received from RailCorp confirming compliance with this condition before the issue of an Occupation Certificate.
Reason: To ensure compliance with RailCorp's concurrence.

ADVISORY NOTES

- Council is aware of an impending upgrade of Marrickville Railway Station, including improved access arrangements and a widened bridge. It is recommended that the developer liaise with RailCorp, with a view to ensuring that portion of the proposed development is of a suitable design as to relate to the impending upgrade to Marrickville Railway Station.
- 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.
- A complete assessment of the application under the provisions of the Building Code of Australia has not been carried out. However, it is understood that the person acting on this consent will rely on BCA Capability & Fire Safety Report prepared by Vic Lilli & Partners.
- 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.
- Useful Contacts

Dial Before You Dig

☎ 1100

www.dialbeforeyoudig.com.au

Department of Environment,
Climate Change and Water

☎ 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.

Landcom

☎ 9841 8660

To purchase copies of Volume One of
"Soils and Construction"

Long Services 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 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 Joint Regional Planning Panel's determination of the application.
- C. THAT** RailCorp be advised of the Joint Regional Planning Panel's determination of the application.
- D. THAT** the Roads and Traffic Authority be advised of the Joint Regional Planning Panel's determination of the application.
- E. THAT** in the event that the Joint Regional Planning Panel approves the application, 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 Joint Regional Planning Panel has agreed to the variation of the following development standard:

Premises:

359 Illawarra Road, Marrickville

Applicant:

Abadeen Marrickville Pty Ltd

Proposal:

To demolish the existing improvements and erect a mixed use development containing approximately 663sqm of retail floor space along the Illawarra Road frontage, 17 studio units, 73 one bedroom dwellings and 90 two bedroom dwellings and two basement levels accommodating 171 vehicles, 39 bicycle spaces, ancillary storage and garbage storage rooms.

Determination:

Deferred Commencement Consent

DA No:

201000115

Lot and DP:

Part Lot 101 DP 842284

Category of Development:

9: Mixed

Environmental Planning Instrument: Marrickville Local Environmental Plan 2001

Zoning of Land: General Business and Special Uses - Railway

Development Standard(s) varied: Clause 33 – maximum floor space ratio for development on land zoned General Business

Justification of variation:

TO BE DETERMINED BY JRPP

Extent of variation:

14.5%

Concurring Authority:

Sydney East Joint Regional Planning Panel under assumed concurrence of the Director General of the Department of Planning

Date of Determination:

Development Assessment Officer: Harjeet Atwal

Date:

1 July 2010