

**JOINT REGIONAL PLANNING PANEL**  
**(Sydney Region East)**

<b>JRPP No</b>	2011SYE106
<b>DA Number</b>	411/11
<b>Local Government Area</b>	Canada Bay Council
<b>Proposed Development</b>	Demolition of existing structures and construction of a 6 storey mixed use building above ground level comprising ground floor commercial/retail with (60) residential units above, plus two basement parking levels below ground floor level
<b>Street Address</b>	121-125 Victoria Road & 62 Formosa Street, Drummoyne (Lot A DP438701 Lot 1 DP218479, Lot 1 DP218651; Lot 36 DP656221; Lot 1 DP205484; Lot 1 DP201239; Lot 2 DP218651; Lot 2 DP218479; Lot 1 DP656217)
<b>Applicant</b>	Architecture and Building Works
<b>Owner</b>	Liv-Better
<b>Number of Submissions</b>	Twelve (12) public submissions
<b>Recommendation</b>	Approval subject to Conditions
<b>Report by</b>	Mr Peter Giaprakas - Senior Planner Canada Bay Council

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## 1. BACKGROUND AND SITE

The applicant seeks consent for *demolition of existing structures and construction of a 6 storey mixed use building above ground level comprising ground floor commercial/retail with (60) residential units above, plus two basement parking levels below ground floor level.*

The infill development proposed is within a *B4 Mixed Use* zone. The designated land use zone permits *shop top housing* development.

The site includes two street addresses known as 121-125 Victoria Road Drummoyne (an RTA classified road) and 62 Formosa Street Drummoyne, and is located within the local government area of Canada Bay.

The Victoria Road (to the north/east) and the Formosa Street (to the south/west) total frontages are 54.86 metres in length. The depth of the site between the two street boundaries is 41.98 metres.

The site falls between 2.96 south/east to north/west along Formosa Street and 3.14 metres from south/east to north/west along Victoria Road and between 2.04 and 2.2 metres along the side boundaries down from Formosa Street to Victoria Road.

The subject site (outlined in black line on the aerial map below) is made up of several allotments including Lot A DP438701, Lot 1 DP218479, Lot 2 DP218479, Lot 1 DP218651, Lot 2 DP218651, Lot 36 DP656221, Lot 1 DP205484, Lot 1 DP201239, Lot 1 DP656217.

Existing on the site is vacant land at the south/eastern end of the site that extends between Victoria Road and Formosa Street, a single storey commercial building currently used as a kitchen showroom addressing Victoria Street, and two single storey light industrial buildings addressing Formosa Street and currently utilised as mechanical workshop and tyre fitting business.

The extent of the site (outlined in heavy black line) is indicated in the aerial map below.

### Aerial map



The overall site is rectangular in shape and has a total area of 2,303m<sup>2</sup>.

The site enjoys dual frontage, the primary frontage being along Victoria Road (an RTA classified main arterial road) and the secondary frontage being along Formosa Street which divides the *B4 Mixed Use* Drummoyne shopping strip and the *R2 Low Density Residential* zone opposite across from Formosa Street. The residential zone opposite the site is located within the Bourketown Conservation Area.

Surrounding development includes commercial/residential to either side of the site within the commercial strip. Newer development adjoining to either side of the site includes development up to 5 storeys in height along the Victoria Road frontage down to two storeys to Formosa Street. Development across Victoria Road includes a lower scale commercial strip. Development across from Formosa Street is predominantly detached single dwellings within the Conservation Area A (Bourketown Conservation Area), as identified under the *Canada Bay Local Environmental Plan 2008*.

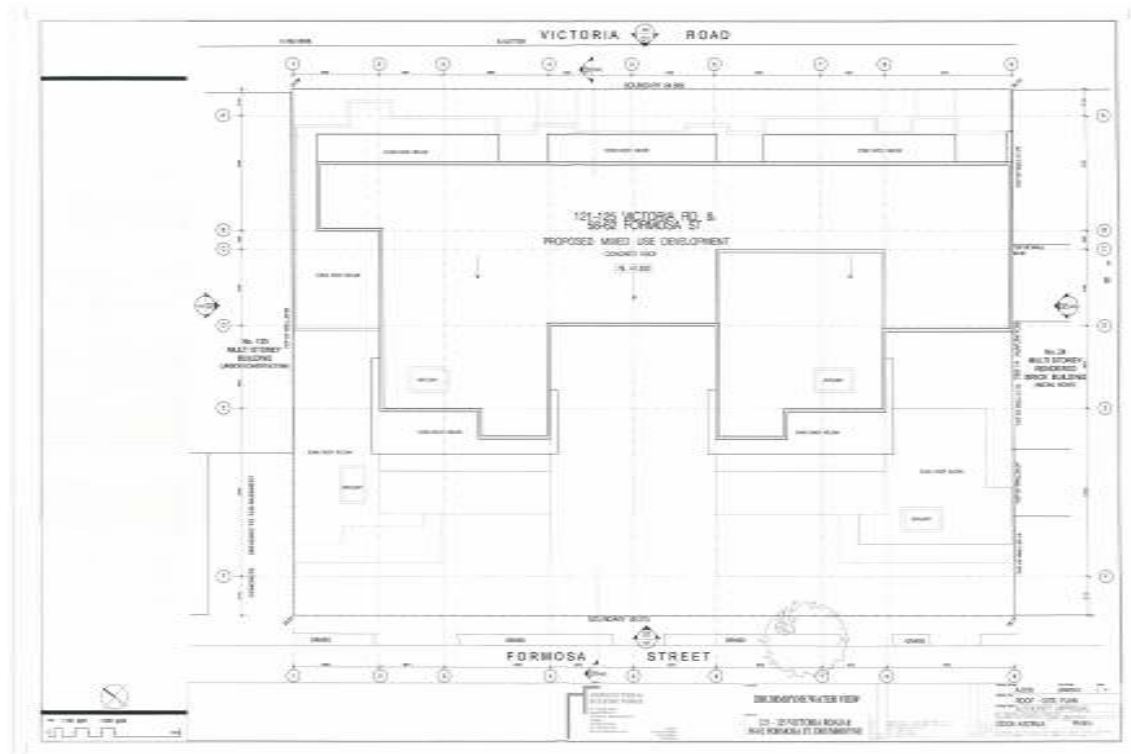
## 2. PROPOSED DEVELOPMENT

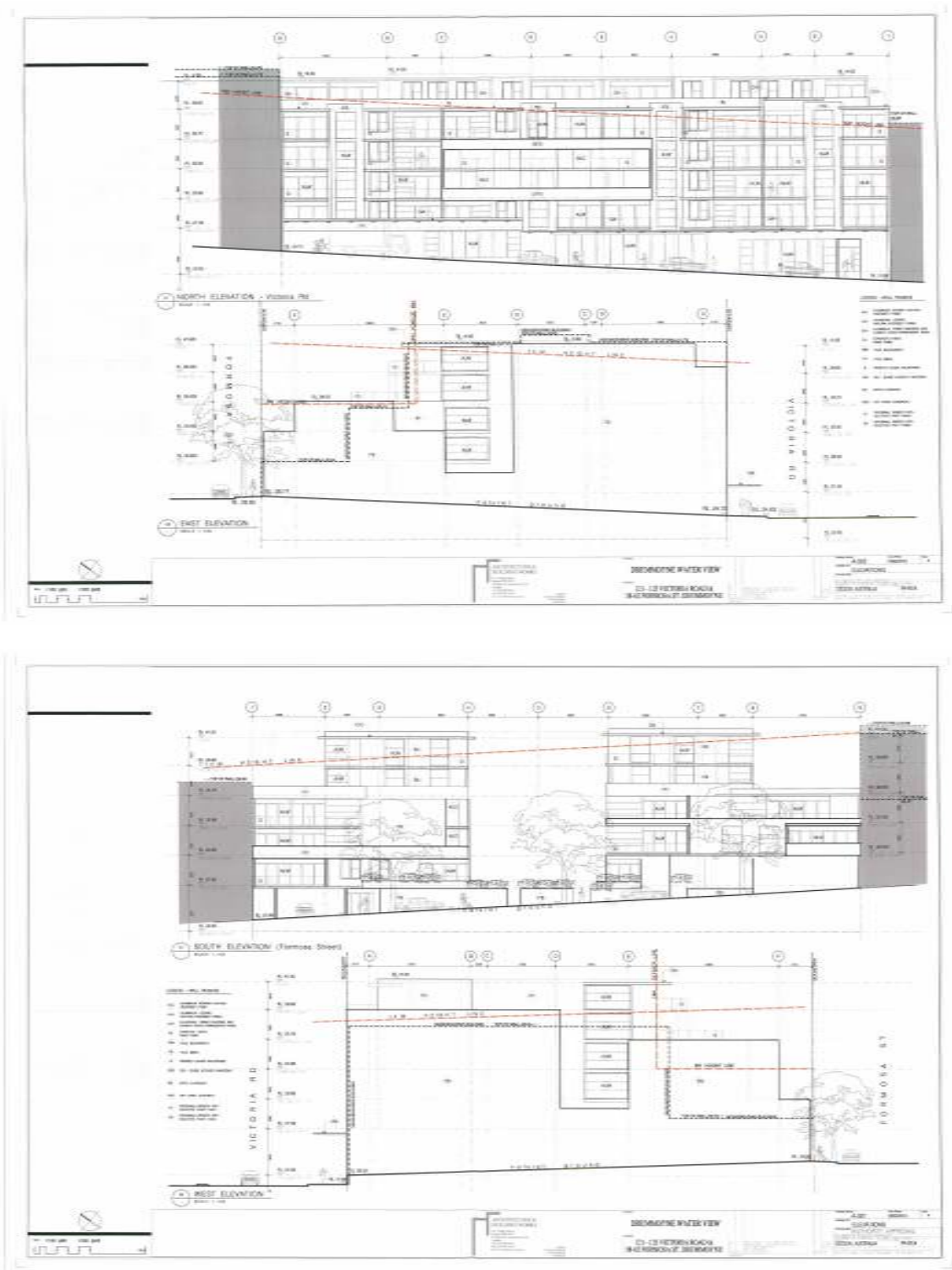
### 2.1 Project Description in Detail

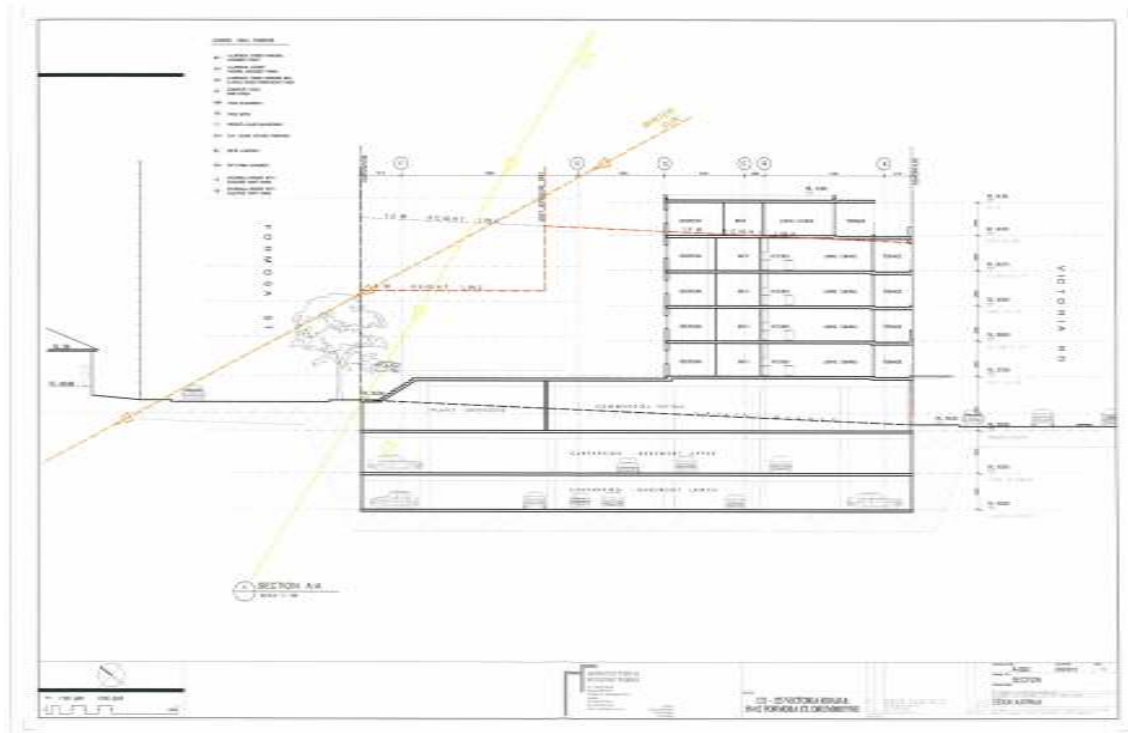
The proposal includes the demolition of all existing structures and construction of a 2 to 6 storey mixed use building above ground plus two basement car parking levels below ground.

The building includes a 5 storey rise along the Victoria Road frontage with an additional storey setback approximately 2.8 metres from the Victoria Road alignment, then stepping down to 2 storeys to Formosa Street at the rear and shaped in a courtyard arrangement.

### Architectural Plans - Site Plan, Elevations and Sections







Ground floor will consist predominantly of retail/commercial space addressing Victoria Road. The commercial component also includes a single boutique sized retail/commercial tenancy on first floor podium level on the Formosa Street side.

A cross site pedestrian link to be open during business operating hours will provide access between Victoria Road and Formosa Street and the communal open space area.

The building comprises ground floor commercial/retail with (60) residential units above in a mix of one, two and three bedroom units including six adaptable units. See development schedule below.

*Development schedule*

Site Area	2,303m <sup>2</sup>
Gross Floor Area	6916m <sup>2</sup>
Floor Space Ratio	3:1
Maximum height (to Victoria Road)	19m to 16.9m
Maximum height (to Formosa Street)	17.6m to 5.9m
One bedroom apartments	13
Average size of one bedroom apartments	62m <sup>2</sup> to 69m <sup>2</sup>
Two bedroom apartments	37
Average size of two bedroom apartments	82m <sup>2</sup> - 99m <sup>2</sup>
Three bedroom apartments	10
Average size of three bedroom apartments	108m <sup>2</sup> - 143m <sup>2</sup>
Total number of apartments	60
Retail Space Area - Ground Floor	1,290m <sup>2</sup>
Retail Space Area - First Floor	52m <sup>2</sup>
Total number of Visitor, Residential and Commercial Car Spaces in Upper Basement	71
Total number of Resident Car Spaces in Lower Basement	85
Communal Open Space - Area	343.05m <sup>2</sup> (entire area including planted areas, steps, ramps and paths)

The proposal also includes two basement parking levels below ground floor with car parking designated for residential on the lower basement level and for visitor and commercial on the upper

basement level. The basement carpark is accessed from a single driveway off Formosa Street to the west end of the building. The upper level includes a travelator to the retail space on the ground floor level.

Loading/unloading for commercial use and collection of commercial and residential waste will be via a semi-enclosed loading dock area with a truck/vehicle turntable that is accessed directly off Formosa Street at the eastern end of the building.

The proposal does not include specific use for the commercial tenancies. The requirement for future applications relating to the fit out and specific use of retail spaces has been included as a condition of consent.

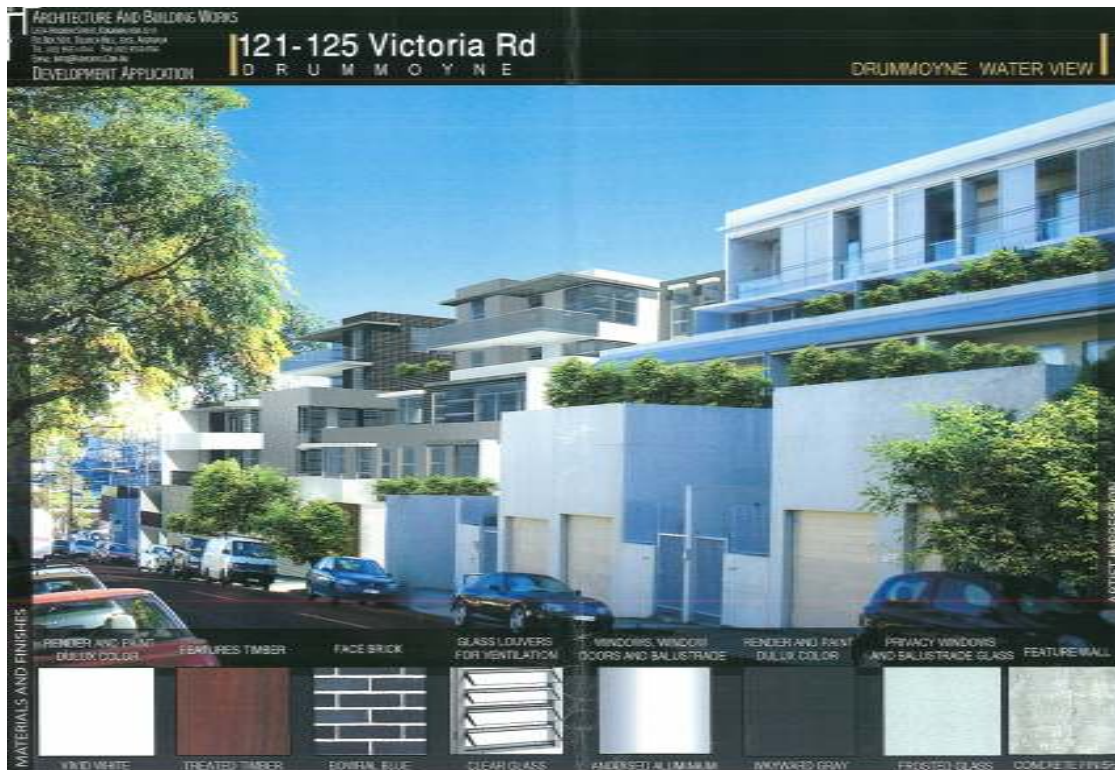
In terms of materials and finishes, the building incorporates various colours and textures that reference the traditional character of the surrounding area generally and also complements newer commercial and mixed-use development along Victoria Road.

Materials and finishes - Victoria Road



Materials and finishes - Formosa Street





The estimated cost of the development is \$20,673,523.00.

## 2.2 Project Amendments

As outlined above the applicant did submit amended plans to address issues raised.

The following key changes were incorporated:

- The architectural plans have been amended in response to Council's Traffic Engineer comments including:
  - i. perimeter walls lowered to 600mm for 1.5m into the development to comply with required sight lines at driveway crossings
  - ii. driveway has been splayed to provide a minimum 2 metres between adjoining driveway crossings in Formosa Street
  - iii. a stop sign and speed hump have been incorporated
  - iv. driveway gradients indicated to comply with councils controls, the BCA and Australian Standards
  - v. reconfigure car parking layout and reallocate additional visitor parking spaces to the residential component
  - vi. include bicycle parking and storage provisions
  - vii. in relation to the disabled spaces, the plans have been amended to comply with the relevant Standards. The shared zones have been relocated on the retail parking level to a designated shared space and on the residential level remained as a shared zone as the only access to this level is by the residence. In relation to the shared zone for the residential component, this complies with the relevant standards
- The architectural plans have been amended in response to Council's Waste Management Officer comments including:
  - i. loading Dock clearance has increased by incorporating a fold in the slab on the south eastern corner of the proposal therefore a layback is no longer required
  - ii. increase capacity of waste storage areas generally

- iii. the garbage area has been increased to accommodate 22 x 660L bins as requested
  - iv. a separate bulky goods storage space has been introduced into the development.
  - v. a garbage chute and storage area has been incorporated within the western core as the garbage area is on the eastern side of the development. The eastern core is located 10m to the garbage area, hence a garbage chute was not considered to be required on this side
  - vi. increase size and relocate commercial bin storage room adjacent to loading dock area
- Personal storage space for residential units has been increased in the basement parking areas in accordance with SEPP 65 requirements
  - Additional privacy louvres to residential unit windows located within the light wells at each end of the building. The screens ensure the provision of light, ventilation, and privacy to the windows that cannot achieve adequate building separation as required under the provisions of SEPP 65.

### 3. STATUTORY CONTEXT

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#### 3.1 Permissibility

Under the Canada Bay Local Environmental Plan, the site is zoned *B4 Mixed Use*, which permits *shop top housing*.

#### 3.2 Environmental Planning Instruments

To satisfy the requirements of Section 79C(1)(a) of the Act, this report includes references to provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the submission of the Development Application.

##### Legislative Provisions

- Environmental Planning & Assessment Act 1979

##### Environmental Planning Instruments

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005
- Canada Bay Local Environmental Plan 2008 (see Appendix A for compliance assessment)

##### Development Control Plans

- City of Canada Bay Development Control Plan 2008 (see Appendix A for compliance assessment)

##### Other Plans and Policies:

- Draft Inner West Subregional Strategy
- Integrating Land Use and Transport Policy package, NSW Dept of Planning 2005

#### 3.3 Primary Controls

##### 3.3.1 Objects of the Environmental Planning & Assessment Act 1979

Section 5 which relates to the objects of the Act, along with general matters for consideration prescribed within Section 79C have been addressed within the body of this report, and on balance the application is considered acceptable.

Section 94A 'Contributions' contained within the Act are also considered and addressed below and is included as condition of consent:

##### Section 94A Contributions

The following Section 94A Levy Contribution is required towards the provision of public amenities and services in accordance with the City of Canada Bay Section 94A Plan 2005. This will be required by condition of consent.

Pursuant to Section 80A(1) of the *Environmental Planning and Assessment Act 1979*, and the City of Canada Bay Section 94A Levy Contributions Plan 2005, a contribution of 0.5% (for works between \$100,001.00 and \$200,000.00) or 1% (for works over \$200,000.00) of the cost of development amounting to **\$206,735.25** shall be paid to Council **prior to the release of any associated Construction Certificate**.

The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the Canada Bay Section 94A Levy Contributions Plan 2005. The Consumer Price Index All Group Index Number for Sydney at the time of the development application determination is **178.7**.

A copy of the Canada Bay Section 94A Levy Contributions Plan 2005 and accompanying Fact Sheet may be inspected or obtained from the City of Canada Bay Civic Centre, 1A Marlborough Street, Drummoyne during business hours or on Council's web site at [www.canadabay.nsw.gov.au](http://www.canadabay.nsw.gov.au)

### **3.3.2 State Environmental Planning Policy No. 55 – Remediation of Land;**

Clause 7 of State Environmental Planning Policy No 55 (Remediation of Land) requires the consent authority to consider whether land is contaminated, prior to granting of consent to the carrying out of any development on that land.

The site includes 62 Formosa Street which is currently being occupied by mechanical workshop business.

The applicant submitted a Preliminary Environmental Site Assessment by Aargus Australia, dated August 2011, which identified particular areas of environmental concerns and recommended a Phase 2 Investigation.

Council's Environmental Health Department reviewed the Phase 1 report and requested that a Phase two report be submitted for consideration prior to the development application proceeding any further.

The applicant subsequently submitted a Phase 2 Environmental Site Assessment by Aargus Australia, dated December 2011. Council's Environmental officer reviewed the report and recommended conditions of consent which have been included. Refer to section 4.4 - Internal Referrals for further details.

### **3.3.3 State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;**

SEPP 65 aims to improve the design quality of residential flat development in NSW through the application of a series of 10 design principles, which guide the consideration of a proposed residential flat building to ensure that it achieves an appropriate level of design quality.

Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles in Part 2 of SEPP 65. In this regard a Design Verification Statement has been provided by Architecture and Building Works, signed by Jim Apostolou, stating that the proposed development has addressed the design quality principles set out in Part 2 of SEPP 65.

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled 'Residential Flat Design Code', which contains a number of 'Rules of Thumb' (standards).

Compliance of the proposal against the ten (10) design quality principles and Rules of Thumb contained within the 'Residential Flat Design Code' are discussed within Appendix A.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) came into force on 1 July 2004 and has been progressively implemented to various types of residential development. The intent of BASIX is to encourage sustainable residential development by requiring applicants to make commitments to incorporating sustainable design to achieve more water and energy efficient buildings.

A BASIX certificate (**No. 388177M**, prepared by Max Bightwell, dated 15 August 2011) has been submitted for the proposal indicating that it will satisfactorily meet the BASIX targets in respect of Water, Thermal Comfort and Energy.

### **3.3.5 State Environmental Planning Policy (Infrastructure) 2007**

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by (inter alia) providing for consultation with relevant public Authorities about certain development during the assessment process or prior to the development commencing.

The proposal triggers consideration by this policy as the site adjoins Victoria Road, a classified RTA road that daily carries in excess of 40,000 vehicles. (in the order of 75,000 vpd).

Clause 101 - Development with frontage to classified road

The objectives of this clause are to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
  - (i) the design of the vehicular access to the land, or
  - (ii) the emission of smoke or dust from the development, or
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The application was referred to NSW Transport - Roads & Maritime Services. Refer to section 4.2.1 below for details. It is considered that the proposal satisfies the objectives of the Policy in that the design in combination with conditions recommended by the relevant public authority ensure that vehicles do not enter the site from the classified road during either the construction process or on-going use of the site.

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

This clause applies to the proposal as it includes residential use and is located on a road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA). It is considered that the residential use may be adversely affected by road noise or vibration.

The proposal is required to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The applicant has included an Aircraft and Traffic Noise Intrusion Assessment prepared by Acoustic Logic, with noise levels monitored during July and August 2011. The report was referred to Council's Environmental officer for comment. No objection was raised to approval subject to standard conditions of consent and all recommendations and actions being adhered to and implemented. It is recommended that these requirements be incorporated as conditions of consent. Refer to section 4.4 - Internal Referrals for further details.

**3.3.6 Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005;**

The site falls within the map area shown edged heavy black on the Sydney Harbour Catchment Map and hence is affected by the provisions of SREP (Sydney Harbour Catchment) 2005. The SREP aims to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. The SREP also provides a set of guiding principles to be taken into consideration in the preparation of environmental planning instruments and / or master plans.

It is noted that the site is separated from the foreshore by approximately 430m and therefore unlikely to have any detrimental visual or ecological impact upon the waterway.

### 3.4 Plans and Policies

#### 3.4.1 Draft Inner West Subregional Strategy

The Subregional Strategy translates objectives of the NSW Government's Metropolitan Strategy and State Plan to the local level.

The Inner West Subregion is situated between Sydney CBD and Parramatta, a Regional City. It takes in the Local Government Areas of Ashfield, Burwood, Canada Bay, Leichhardt and Strathfield.

With regard to Canada Bay, the Draft Inner West Subregional Strategy states as follows:

*Canada Bay is located only 10 km from Sydney CBD, covering an area of approximately 20 km<sup>2</sup>, with over 38 km of foreshore and 130 parks, open spaces and reserve links. In 2004, the population of Canada Bay was approximately 65,800. The area is well known for its cultural diversity, with approximately 30 per cent of the population speaking other than English as a first language. Rhodes has been a major focus for residential and employment development activity in recent years.*

The following table provides a brief assessment of the proposed development against the primary objectives of the strategy which relates to housing:

Objective	Comment
<b>C1</b> <i>Ensure Adequate Supply of Land &amp; Sites for Residential Development</i>	The site is located within the Drummoyne shopping strip along Victoria Road and the land is appropriately zoned for shop top housing which will contribute to housing accommodation and population increase for the City of Canada Bay Council
<b>C2</b> <i>Plan for a Housing Mix near Jobs, Transport and Services</i>	The location of the site within the Drummoyne shopping strip along a main arterial road provides good access to public transport and other nearby services
<b>C3</b> <i>Renew Local Centres</i>	The site is within a local shopping strip that is currently in transition with further development potential yet to be realised
<b>C4</b> <i>Improve Housing Affordability</i>	The proposal provides 60 residential dwellings, varying from one to three bedrooms
<b>C5</b> <i>Improve the Quality of New Development and Urban Renewal</i>	The proposal has been designed in response to SEPP 65, Canada Bay Local Environmental Plan 2008 and the City of Canada Bay Development Control Plan 2008

The Subregional Plan, for the Inner West, also seeks an additional 30,000 new dwellings over the next 20 years; specifically Canada Bay Council has a dwelling target of 10,000. The provision of 60 new apartments will positively contribute towards this target.

#### 3.4.2 Integrating Land Use and Transport Policy package, NSW Dept of Planning 2005

The Integrating Land Use and Transport Policy package (ILUT) was introduced in 2005 and provides a framework for State Government agencies, Councils and developers to integrate land use and transport planning at the regional and local levels.

The aim of the Policy was to ensure that urban structures, building forms, land use locations, development designs, subdivisions and street layouts achieve the following planning objectives:

- improving access to housing, jobs and services by walking, cycling and public transport
- increasing the choice of available transport and reducing dependence on cars
- reducing travel demand including the number of trips generated by development and the distances travelled, especially by car

- supporting the efficient and viable operation of public transport services
- providing for the efficient movement of freight.

The subject site is located within close proximity to places of employment, services and public transport and onsite parking provisions and access are considered adequate.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1 Public Exhibition Details

Under Section 79A of the EP&A Act, the Development Application must be notified or advertised in accordance with the provisions of a development control plan if the development control plan provides for the notification or advertising of the application.

In accordance with Part 2 of the Canada Bay Development Control Plan 'Notification and Advertising', the application was notified to adjoining and nearby property owners and occupiers.

After accepting the Development Application, Council undertook the following actions:

- Made the Application publicly available from **11 October 2011 until 25 October 2011** (minimum 14 days)
  - On Canada Bay Council's website;
  - At Canada Bay Council's Administration office
- Notified local landowners and residents about the proposal (and the exhibition period) with 209 letters sent;
- Notified relevant State and Local Government Authorities

A total of **twelve (12) public submissions** were received in response to the exhibition (**Part 4.3** of this report addresses the comments raised by submissions. Refer to **Appendix B** for list of submitters).

**One (1) public authority** (NSW Transport - Roads & Maritime Services) also made submission returning comments for Council's consideration. See below under section 4.2.1.

Council also notified the application to Energy Australia however no comments have been received.

On 9 January 2012, the Applicant submitted amended plans that responded to issues raised by Council.

### 4.2 Submissions from Public Authorities

The following submissions were received from public authorities:

#### 4.2.1 NSW Transport - Roads & Maritime Services

NSW Transport - Roads & Maritime Services (RMS) reviewed the development application and provided the following comments to Council for its consideration in the determination of the development application:

- All the vehicular access, including construction vehicle access, to the subject site shall be via Formosa Street. No vehicular access from Victoria Road to the site will be supported.

Comment - Agreed. Victoria Road is a main arterial road and public transport route and the flow of traffic should not be unnecessarily impacted upon by any construction works or on-going use of the site. It is recommended that this comment be adopted as a condition of consent. With regard to the construction stage, a Construction Traffic Management Plan shall detail that no vehicles will access the site from Victoria Road.

- Any redundant driveway on Victoria Road shall be removed and replaced with kerb and gutter to match existing.

The design and construction of the kerb and gutter on Victoria Road shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS' Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 24 96).



Detailed design plans of the proposed gutter and kerb are to be submitted to RMS for approval prior to the commencement of any road works.

A plans checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent.

- "No Stopping" restrictions shall be installed along the Victoria Road frontage of the subject site.

Comment - Agreed. This is consistent with current parking restrictions along this section of Victoria Road in order to improve general traffic flow. It is recommended that this comment be adopted as a condition of consent.

- The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 - 2004 and AS 2890.2 - for heavy vehicle usage.

Comment - Agreed. Council's standard conditions of consent in this regard are recommended.

- Clear sight lines shall be provided at the property boundary line to ensure adequate visibility between vehicles leaving the car park and pedestrians along the frontage road footpath in accordance with Figure 3.3 of AS 2890.1 - 2004 for light vehicles and AS 2890.2 - 2002 for heavy vehicles.

Comment - Agreed. Council's standard conditions of consent in this regard are recommended.

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

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent and should be complied with prior to the issue of a Construction Certificate.

- The number of on-site car parking spaces should be provided to Council's satisfaction.

Comment - Adequate on-site car parking has been provided to Council's satisfaction. See comments under Traffic and Parking.

- The developer shall be responsible for all public utility/relocation works, necessitated by the approved development and as required by the various public utility authorities and/or their agents.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent.

- All vehicles are to enter and leave the site in a forward direction.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent.

- A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent. The Construction Traffic Management Plan shall detail that no vehicles will access the site from Victoria Road during the construction process.

- All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

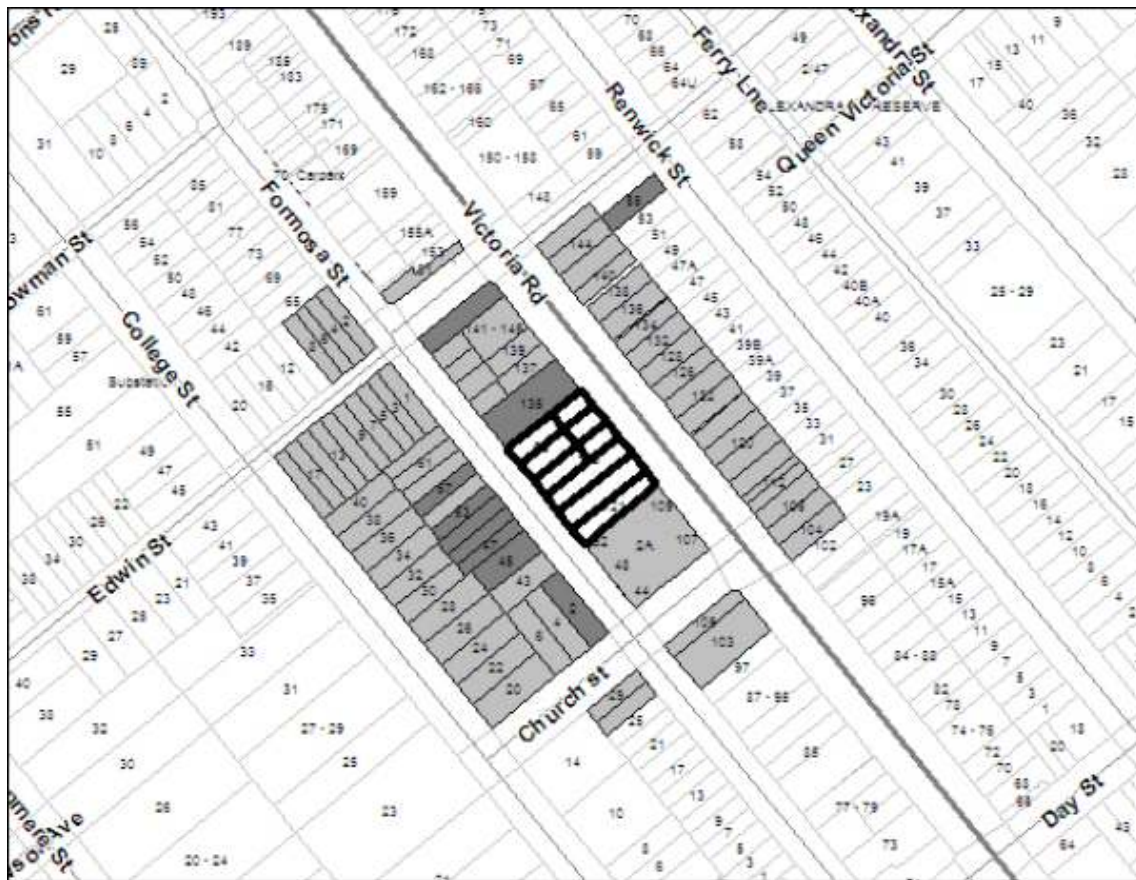
Comment - Agreed. It is recommended that this comment be adopted as a condition of consent.

- All works/regulatory signposting associated with the proposed development are to be at no cost to RMS.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent.

#### 4.3 Public Submissions

**Twelve (12) submissions** were received from the public. The location map below indicates the objector's properties around the site, in darker shading. The lighter shading indicates properties notified of the proposal.



The key issues raised in public submissions are listed below -

- |  |   |
|--|---|
| • Streetscape and Street Setbacks        | • Solar Access  |
| • Density                                | • Storage (residential)                               |
| • Building Height                        | • Method of Construction/Damage to adjoining property |
| • Visual and acoustic Privacy            | • Insufficient Notification Time                      |
| • Traffic Generation, Access and Parking |   |

A list of all public submissions has been included below and a copy of all submissions is contained in **Appendix B**:

- *Streetscape and Street Setbacks*

Concerns are raised in particular with regard to the streetscape presentation when viewed from Formosa Street. These concerns include not reflecting the dominant building pattern or setbacks from the street or complementing the visual character of the street.

#### Response

The subject site is an infill development between a commercial building to the west and a mixed use building to the east both of which are not consistent in their building pattern. The proposal includes various setbacks from Formosa Street and articulated bulk from two storeys rising toward the Victoria Road frontage away from residential properties located across the road in Formosa Street. The visual presentation and character of the proposal is considered acceptable and not inconsistent with the variety of development in the immediate vicinity.

- *Building Height*

This issue has been raised by objectors and relate to the non-compliances with maximum height as prescribed in the *Canada Bay Local Environmental Plan 2008 (CBLEP)* and rise in stories as prescribed in the City of Canada Bay Development Control Plan 2008 (CBDGP).

#### Response

The proposed building has non-compliance with the maximum building height as prescribed under the CBLEP.

In terms of urban design, the building is considered to provide an acceptable massing, has been well articulated and provides general compliance with applicable planning controls.

The applicant has provided justification of the height non-compliance under the provisions of clause 4.6 of the LEP and it is considered satisfactory with regard to the proposal meeting the objectives of the clause.

- *Visual and Acoustic Privacy*

Concerns have been raised with regard to overlooking from upper levels and acoustic privacy.

#### Response

Visual and acoustic privacy have been considered in accordance with the SEPP 65 design guide and the proposal is considered satisfactory in this regard subject to conditions. The applicant has agreed to provide solid or frosted glass to balustrades on particular terraces facing Formosa Street and to reduce larger terraces by incorporating a planter boxes.

- *Traffic Generation, Access and Parking*

#### Response

The proposal is fully compliant with on-site parking provisions and vehicular access to the site has been provided on the preferred side of the site being Formosa Street. Traffic generation, access and parking has been considered by Council's Traffic Engineer and conditions have been applied relating to correct allocation of parking between residential and commercial and loading dock provisions. See sections 4.4, 5.3 and Appendix A for further details.

- *Solar Access*

#### Response

There are resident concerns that the proposal will cause significant overshadowing because of its height. The applicants shadow diagrams indicate that no residential living room windows will be affected by the proposal. Some shadow is likely to be cast at 9.00am over the front yards of residential properties located directly opposite the site.

- *Storage (residential)*

#### Response

The applicant has amended the original plans to provide adequate private storage to all residential units. Amendments include additional private storage space in the car parking area

- *Method of Construction/Damage to adjoining property*

Response

Concern has been raised regarding construction method and possible damage to adjacent buildings. Standard conditions will require the applicant to ensure protection of adjoining property.

- *Insufficient Notification Time*

Response

The application was notified for two weeks in accordance Council's requirements.

#### **4.4 Internal Referrals**

##### ***Stormwater Management***

The application was referred to Council's Engineer for comment on stormwater management.

##### ***Traffic and Parking***

The application was referred to Council's Traffic Engineer for comment. The officer reviewed the proposal including the Statement of Environmental Effects, Architectural Plans, and the Traffic and Parking Report by Varga Traffic Planning dated September 2011.

The officer's issues are summarised as follows:

- Given the site is located on a classified road, RTA referral and concurrence is required.

Response - The proposal was referred to NSW Transport - Roads & Maritime Services (RMS). RMS returned comments which have been incorporated as conditions of consent. See section 4.2.1.

- The submitted Traffic Report is based on the use of Thursday evening peak traffic generation (12.3 Peak Hour Vehicle Trips (PVTs) per 100m<sup>2</sup>) derived from the *RTA Guide*, for the retail component of the development. It is noted that the PVT for Saturday is higher i.e. 16.3, as per the RTA guide. The Traffic Report shall be amended to address the impacts of the Saturday morning peak associated with the retail component of the development, especially the impacts on Formosa Street.

Response - The applicant has provided as statement form Varga Traffic Planning Pty Ltd in response as follows.

*The request for an additional traffic analysis to be undertaken for Saturday is considered unnecessary because:*

- *The RTA typically requires an assessment of the weekday evening commuter peak period, as provided in the traffic report*
- *The existing "background" traffic flows on the surrounding road network will be typically much lower on Saturdays than occurs during the weekday evening commuter peak period*
- *The additional traffic flows that would be generated by the higher Saturday 'traffic generation rate' is minimal, particularly when the additional traffic flows are dispersed over a number of different approach/departure routes, such as the additional volume of vehicles for individual movements likely to be less than 10 vph per movement.*

Based on the above response and that the total number of car spaces proposed will satisfy all on-site parking requirements under Council's DCP, it is considered unnecessary and unreasonable to request additional traffic analysis to be carried out by the applicant.

- ***Vehicular Access*** - All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition. Further, the applicant has amended the architectural plans to reflect this requirement.

Response - This requirement forms part of Council's standard conditions of consent requiring the applicant to demonstrate compliance prior to the issue of a Construction Certificate.

- The submitted plans indicate that the two proposed driveways will be located immediately alongside the neighbouring properties existing driveway. The combined width of the two driveways side by side will create an excessive driveway width and will create a pedestrian safety hazard. The plans shall be amended to indicate a minimum of 2m separation between the edge of the two driveways.

Response - The applicant has amended the architectural plans to reflect this.

- The applicant shall install a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement prior to the issue of a construction certificate.

Response - This requirement forms part of Council's standard conditions of consent requiring the applicant to demonstrate compliance prior to the issue of a Construction Certificate.

- Vehicular access shall comply with the relevant provisions of AS/NZS 2890.1:2004.
  - (i) Longitudinal sections along the extreme wheel paths of each driveway/access ramp demonstrating compliance with the scraping provisions of AS/NZS 2890.1:2004. It shall include all levels, grades, transitions and headroom clearances. It shall extend from the centre-line of the roadway through to the parking area and loading dock.

Response - This requirement forms part of Council's standard conditions of consent requiring the applicant to demonstrate compliance prior to the issue of a Construction Certificate.

- *Parking provision – Residential Component*  
Council's DCP- *Multi Unit housing* requires the provision of 1 car space per 1 bedroom dwelling/studio dwelling, 1.5 spaces per 2 bedroom dwelling and 2 per dwelling with 3 or more bedrooms. In addition, multi unit development with more than 5 dwellings shall provide 0.5 spaces per dwelling for visitors.

Based on these requirements the residential component of the development would be required to provide a total of 119 spaces consisting of 89 residential and 30 visitor's spaces.

Response - The applicant has amended the original plans that were reviewed by Council's Traffic Engineer to indicate 88 residential spaces and 28 visitor's spaces, a total of 116 spaces. In this regard the proposal is non-compliant by 3 spaces. However, there is a surplus of 6 spaces that are indicated as retail spaces on the plans. A condition of consent has been included requiring the approved plans to be amended prior to the issue of a Construction Certificate to indicate car space No. 41, located on the Upper Basement Floor, as a residential space instead of a visitor space, and car space No's 70 and 71 as visitor spaces instead of retail spaces in order to comply with the residential component.

- *Parking Provision - Commercial Component*  
Council's DCP- *Mixed Use Areas and Neighbourhood Centres* requires Business Premises to provide 1 car space per 40m<sup>2</sup> GFA.

Based on these requirements the commercial component of the development would be required to provide a total of 34 commercial spaces.

Response - The applicant has amended the original plans that were reviewed by Council's Traffic Engineer to indicate a total of 40 retail car spaces. Therefore, this results in a surplus of 6 spaces. In this regard the proposal is compliant. Further, as discussed above, a total of 3 of the surplus spaces will be conditioned to be reallocated to comply with the number of required spaces for the residential component.

It is noted that the proposal indicates the commercial component as retail space and specific use is not included in this proposal. The retail use will be subject to future development application for approval on specific use of these tenancies. The scenario may arise however that future use includes, for example, a convenience store or supermarket type tenancy or combination of different commercial uses. The loading dock area has been separated from the residential driveway entrance and therefore provides flexibility for future commercial tenancies with minimal impacts to residents of the building. A standard condition of consent is included to ensure that any future commercial use will be subject to separate development approval.

- *Bicycle storage* - Council's DCP- *Bicycle parking and storage facilities* requires residential developments to provide 1 bicycle storage space for every dwelling and 1 bicycle parking facility for every 12 dwellings. Commercial developments are required to provide 1 bicycle storage space per 200m<sup>2</sup> and 1 bicycle parking facility per 750m<sup>2</sup>. The submitted proposal **does not** satisfy Council's bicycle storage requirements.

Response - The applicant has amended the original plans that were reviewed by Council's Traffic Engineer that indicates compliance with the bicycle parking and storage facilities requirement is achievable. Council's standard condition of consent in this regard has been adopted.

- *Carpark layout* - The submitted plans indicate that the Shared Areas accompanying the disabled parking spaces shown as being parking bays 31, 34, 50, 57, 64, 65, 70, are located in the vehicular access aisles. This arrangement is not supported. The shared areas shall be specifically reserved spaces and shall contain bollards, as per the requirements of AS2890.6:2009. The plans shall be amended to achieve compliance with this standard prior to the issue of development consent.

Response - The applicant has amended the original plans that were reviewed by Council's Traffic Engineer to indicate the above. The requirement to comply with the relevant standard will form part of Council's standard conditions of consent.

- *Carpark layout* - Any stacked parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking), prior to an Occupation Certificate being issued and moving of stacked vehicles must occur wholly within the property.

Response - This will be required by condition of consent.

- *Provision of mechanical turntable* - The submitted plans show the provision of a mechanical turntable, however it is noted that the Traffic Engineer does not generally support the use of such mechanical devices within car parks. Should the Planning Officer consider approving the application with the turntable, it is recommended that the following information (at a minimum) be obtained from the applicant prior to any approval being given for the turn table.

- Manufacturer specifications and instructions for operation;
- Details of manual operation in the event of power/mechanical failure;
- Maintenance schedules;
- The waiting and working times for the turntable; and
- Safety and training requirements for the use of the turntable.

Response - Supporting the provision of a mechanical turntable is the preferred option. This will allow for the on-site loading and unloading for both the retail and the residential component including all waste collection and for vehicles to enter and exit the site safely in a forward direction with minimal disturbance to both current and future residents. The required information regarding the turntable will be conditioned to be lodged for Council approval prior the issue of a Construction Certificate. This will ensure that the provision of an appropriate turntable and loading dock area is provided to cater for Council's collection trucks. See further requirement with regard to the turntable under the heading of *Environmental - Waste* comments below.

### **Landscaping**

The application was referred to Council's Landscape Architecture for comment. The officer stated that particular plant species proposed would not likely survive. Conditions of consent have been applied to require the applicant to provide appropriate species for the location. Further, conditions have been applied for the provision of additional planter beds to private terraces to improve general amenity and assist with minimising any privacy impacts.

#### ***Environmental - Remediation***

The application was referred to Council's Environmental Officer for comment on possible site contamination that could exist due to the light industrial use carried out on the site.

As discussed above, Council's officer reviewed the applicant's Phase 1 and 2 Environmental Site Assessments and specific conditions of consent relating to remediation action plan, validation report and site audit statement have been included.

#### ***Environmental - Noise***

The application was referred to Council's Environmental Officer for comment on possible impacts with regard to noise and vibration given the proximity of the site to a main road.

The officer reviewed the submitted Air and Traffic Intrusion Assessment undertaken by Acoustic Logic Pty Ltd dated 22 July 2011 and did not raise objection to approval subject to conditions of consent. The report outlined a number of recommendations and actions however it finds the proposal compliant with noise criteria.

All recommendations made in the report will be required to be adhered to by the applicant as condition of consent.

#### ***Environmental - Waste***

The application was referred to Council's Waste Officer for comment on waste management. The officer raised issues relating to how the loading dock/turntable will work and the adequacy of residential bin storage, and size and location of commercial bin storage rooms.

The submitted waste management plan and drawings are lacking detail on how the ongoing waste management i.e. after occupation, is going to work.

The applicant revised the original plans in response to the satisfaction of the Waste Officer.

It is noted however that the specific use of the retail/commercial tenancies and strata subdivision of the residential units do not form part of this application. It is expected however that the retail component will require loading/unloading to be able to be carried out in a manner as to minimise any impact on surrounding residents. A condition of consent has been included to require the applicant to lodge separate application for the use and operation of any future use including specific details relating to the use, capacity and operation of the loading dock turntable. Similarly, it would be expected that the residential units will be strata subdivided thereby any turntable and loading dock area will need to accommodate Council's garbage collection vehicles if the intention is to enter the site, turn the truck, collect bins/garbage and then exit the site in a forward direction.

#### ***Access***

The application was referred to Council's Access Committee for comment on accessibility. The Committee reviewed the applicant's Accessibility Report prepared by Architecture and Building Works, dated September 2011 and no issues were raised. The report was supported by the Committee.

#### ***GIS***

The application was referred to Council's Land Information Systems officer for comment on street numbering. The officer recommended available street numbers for both Victoria Road and Formosa Street.

A condition of consent has been included regarding street numbering. The Victoria Road commercial tenancy will be numbered 125 Victoria Road and the residential units above (including the small

commercial tenancy on the podium level) will have the street address 54 Formosa Street with unit numbers in numerical order from the first floor level up the top floor.



## 5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

### 5.1 Overshadowing

Council's City of Canada Bay Development Control Plan 2008 states the following controls in relation to overshadowing and solar access. The controls have been considered against the proposal. The objectives of these controls is to maximise solar access to living areas and private open space in order to improve residential amenity and to minimise the amount of overshadowing of neighbouring developments and outdoor spaces to maintain their amenity.

*5.2.3 (C1) New buildings and additions are sited and designed to maximise direct sunlight to north-facing living areas and outdoor recreation areas.*

*5.2.3 (C2) Direct sunlight to north facing windows of living areas and private open space of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.*

Comment: The applicant has submitted shadow diagrams indicating that the majority of additional overshadowing during mid-winter will be falling over Formosa Street up to 12 Noon and by 3pm will be against the adjoining boundary wall of the adjoining property to the south-east. Some residential terrace area at the rear of the adjoining building will be affected by the proposal however it is noted that the area is south-west facing and difficult to protect against overshadowing impacts

No other residential property is significantly affected by overshadowing as a result of the proposal.

### 5.2 Privacy

Visual and acoustic privacy has been assessed in detail under SEPP 65 consideration (Appendix A). The proposal is considered satisfactory in this regard.

### 5.3 View Corridors/View Sharing

There are no apparent significant views to be affected as a result of the development proposal. No submissions were received in relation to view loss. The proposal itself will capitalise on some distant district and views from the upper residential floor levels. The proposed form will be consistent with the existing and desired built form in the mixed-use zone.

### 5.4 Traffic Generation, Parking and Loading

Part 7.8 of the CBDP prescribes the objectives and controls for parking provisions as they relate to Mixed Use development.

The objectives under this section are as follows:

*O1 To ensure development incorporates adequate parking*

*O2 To ensure parking areas do not detract from the streetscape*

Comment: The proposed development achieves full compliance (as conditioned) with the parking controls applicable to the site under the DCP. See table below. The applicant has provided a total of 156 spaces. There is a minor shortfall of one residential car space allocation however there is a surplus of 6 spaces allocated to the commercial component. A condition of consent will ensure that the allocation of spaces to residential (including visitors) and commercial components will result as compliant.

<b>Parking Allocation</b>	<b>DCP Requirement</b>	<b>Total Required</b>	<b>Proposed</b>	<b>Compliance</b>
Residential Dwelling	1 car space per 1 bedroom dwelling/studio dwelling	89	89	Yes (conditioned - plans require

	1.5 spaces per 2 bedroom dwelling  2 per dwelling with 3 or more bedrooms			amendment)
Visitor Parking	Multi unit development with more than 5 dwellings shall provide 0.5 spaces per dwelling for visitors	30	30	Yes (conditioned - plans require amendment)
Retail Parking	1 space per 40m <sup>2</sup>	34	34 (plus surplus of 3 spaces)	Yes

The application will provide a complaint level of bicycle parking and storage as required by the City of Canada Bay Development Control Plan 2008 (conditioned).

The proposal will provide entry/exit points to the basement car parking levels and to the loading dock from the preferred Formosa Street side rather than interrupting traffic flow from the Victoria Road side.

The application and accompanying traffic report was referred to Council's Traffic Engineer and the RTA for comment. Refer to section 4.4 - Internal Referrals above for further details.

## 5.5 Noise

Generally, the proposed development is not likely to result in any unreasonable on-going noise impacts on surrounding properties following construction. The primary commercial tenancy is located on the ground floor level on Victoria Road side and separated from the residential component. Primary living areas of the proposed residential units are adequately separated away from other each other.

To minimise noise impact during demolition and construction, two standard conditions are to be imposed that restrict the demolition and construction hours from 7.00 am to 5.00 pm. Mondays to Saturdays. Works are not permitted on Sundays and public holidays.

Furthermore, the applicant is required to comply with relevant sections of the Protection of the Environment Operations Act 1997 and Regulations; the NSW Environment Protection Authority Industrial Noise Policy (2000) and the NSW Environment Protection Authority Environmental Noise Control Manual (1994).

Given that the site is located along a classified road, the following condition of consent is also included.

### **Noise Attenuation from a Main Road**

*All residential units fronting Great North Road must comply with Australian Standard 3671: Acoustics—Road Traffic Noise Intrusion. Details are to be provided **prior to the issue of a Construction Certificate**.*

*(Reason: Noise attenuation)*

## 5.6 Floor Space Ratio

The proposal is fully compliant with regard to maximum floor space ratio under the Canada Bay Local Environmental Plan 2008.

## 5.7 Side Setbacks

There are no side setback controls applicable to the site other than Building Code of Australia (BCA) requirements. There are no issues raised with regard to side setbacks other than compliance with the BCA. Standard condition of consent has been applied.

## 5.8 Streetscape and Urban Character/Bulk and Scale/Building Envelope

### *Streetscape and urban character/Bulk and Scale/Building envelope*

As discussed under SEPP 65 consideration (Appendix A), the proposal is satisfactory with regard to its street presentation and building envelope, from both the Victoria Road and the Formosa Street frontages.

It is considered that the small scale urban character of the low density residential area opposite the site in Formosa Street has been adequately addressed and respected in the proposed design with regard to materials and colours, architectural articulation, FSR, building height and setbacks to upper floor levels.

The subject site is adjacent to Conservation Area A (Bourketown Conservation Area) as identified in the *Canada Bay Local Environmental Plan 2008*. The conservation area is separated from the site by Formosa Street. As discussed above, the proposal responds adequately with regard to tapering down the building form toward Formosa Street, utilising complementary colours and materials and providing substantial communal open space. It is considered that the smaller scale traditional character of the conservation area is maintained and respected proposed development design.

The bulk of the proposal has been spread throughout the site to create a visual focal point in the form of the central courtyard (communal open space) and to provide excellent amenity to residential units with the majority having dual access and cross-flow ventilation. As a result the building structure at either end of the site protrudes beyond the allowable building height and envelope as prescribed in Council's LEP and DCP.

The building height is exceeded toward the Victoria Road Side however the height along the Victoria Road alignment has remained consistent with newer development on either side. The non-compliant upper floor facade has been setback away from the Victoria Road alignment approximately 1.9 metres to the terrace balustrade and approximately 5.7 metres to the external façade. The north/western side wall is set also set back approximately 1.9m from the side boundary. Further, a condition of consent has been applied to setback the fifth floor south/western external wall a minimum of 900mm in order to add further articulation and minimise the appearance of bulk from the Formosa Street side.

The building envelope non-compliance occurs in a relatively small area of boundary wall on the Formosa Street side. The boundary walls in these locations have been treated with darker face brick finish to minimise any visual impact and to reflect the more traditional character of the low density dwellings across from Formosa Street within the conservation area. The visual impact of these side walls are further reduced from a streetscape perspective due to the newer commercial and mixed-use developments on either side of the site.

It is noted that the upper level floor on the south elevation, on the inside façade of the communal open space area, has scope for setting back the upper level slightly to assist in reducing overall bulk appearance. A condition of consent has been applied to reduce the external façade of all bedrooms in units 5.02 and 5.03 by a minimum of 900mm. This will maintain a similar bedroom dimension as those located in the same position on lower floors.

## 5.9 Intensity of Use

The proposal is considered acceptable with regard to proposed intensity of use and consistent with the B4 Mixed Use zone along the Victoria Road Drummoyne shopping strip.

## 5.10 Social/Economic

The proposal is not expected to have any significant social or environmental implications. Social and economic benefits include the addition of a mix of housing stock that is located along a main public transport corridor, public facilities and services and close to employment opportunities and the inclusion of substantial retail space will create job opportunities. Six (6), or 10%, of the residential units are designated as adaptable units. Further, the central courtyard area provides an open space communal area to be shared by both private residents and the public with the inclusion of a pedestrian link providing access between Victoria Road and Formosa Street.

### **5.11 Landscaping/Tree Removal**

There is no vegetation existing on the site. The proposal is limited as to the amount of landscaping it can provide however the applicant has included landscape concept plans that provide planting throughout the communal open space area and units. Most of the site will be built upon and type and survival of plant species needs to be considered carefully. The submitted landscape plans have been reviewed by Council's Landscape Architect and are subject to conditions relating to appropriate selection of plant species to ensure survival. See section 4.4 - Internal Referrals above. Further, planting will be increased by conditions of consent relating to additional planer beds to private terraces facing Formosa Street.

## 6. CONCLUSION

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Council has assessed the submitted plans and documentation and considered the public submissions in response to the proposal.

The issues raised in submissions relate to:

- Streetscape and Street Setbacks
- Density
- Building Height
- Visual and Acoustic Privacy
- Traffic Generation, Access and Parking
- Solar Access
- Storage (residential)
- Method of Construction/Damage to adjoining property
- Insufficient Notification Time

Council is satisfied that the impacts of the proposed development have been adequately addressed within the submitted application as amended and the recommended conditions of approval.

The proposed development will allow for 60 dwellings, 2 commercial tenancies, 156 car parking spaces, and landscaping. Furthermore, the Development Application has provided a satisfactory level of compliance with applicable Environmental Planning Instruments.

The proposal is recommended for approval subject to conditions.

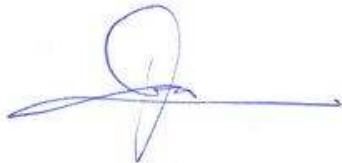
## 7. RECOMMENDATION

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Pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT the Joint Regional Planning Panel Sydney East Region, as the determining authority, grant consent to Development Application No. 411/2011 for the *demolition of existing structures and construction of a 6 storey mixed use building above ground level comprising ground floor commercial/retail with (60) residential units above, plus two basement parking levels below ground floor level* on land at 121-125 Victoria Road & 62 Formosa Street, subject to the following site specific conditions. In granting consent the Joint Regional Planning Panel - East has regard to the merit considerations carried out in the assessment report and pursuant to s.79C of the Environmental Planning and Assessment Act. On consideration of merits of the case the Joint Regional Planning Panel - East acknowledges the areas of non-compliance arising from the application but notes that it supports the application based on the particular circumstances of the case and does not consider that the consent gives rise to a precedent.

**Prepared by:**



Peter Giaprakas  
**Senior Planner**  
**Canada Bay Council**

**Endorsed by:**

**Approved by:**

A handwritten signature in dark ink, appearing to read 'N. Butler', with a large, stylized loop at the end.

Narelle Butler  
**Manager**  
**Canada Bay Council**

A handwritten signature in dark ink, appearing to read 'Tony McNamara', with a large, stylized loop at the end.

Tony McNamara  
**Director Planning and Environment**  
**Canada Bay Council**

## APPENDIX A - COMPLIANCE WITH ENVIRONMENTAL PLANNING INSTRUMENTS

### SEPP 65 - Design Quality of Residential Flat Development

<b>Key Principles of SEPP 65</b>	<b>Response</b>
<i>Principle 1: Context</i>	SEPP 65 requires that development respond to the desired future character of its context as stated in planning and design policies. In this regard the proposal, given its context as infill development in between newer development in the Drummoyne Mixed Use zone, it is considered not inconsistent with adjoining newer development on either side of the site. The proposal is considered acceptable with the Canada Bay LEP and City of Canada Bay DCP and generally follows the building envelope prescribed. The proposal also encourages activation and visual interest towards the street frontages.
<i>Principle 2: Scale</i>	Provision of a reasonable area of communal open space and appropriately designed building form provides a building scale that is acceptable. The building has been adequately articulated generally and incorporates effective visual interest with negative space and materials and colours toward minimising overall scale.
<i>Principle 3: Built Form</i>	<p>The built form of the proposal is generally consistent with the guidelines in City of Canada Bay DCP.</p> <p>The primary street alignment along Victoria Road is consistent with newer development adjoining on either side of the site. The upper-most floor is setback from the street alignment in order to minimise visual impact. The specific treatment of the building form has been appropriately considered so as to maintain consistency with newer development and reduce excessive bulk.</p> <p>The overall built form is arranged in a courtyard shape to provide a central communal landscaped amenity and to afford most residential units with dual aspect and good cross-flow ventilation. This design approach has forced the uplift of the building form.</p>
<i>Principle 4: Density</i>	In terms of density the site is allocated an FSR of 3:1. The proposal is fully compliant in this regard.
<i>Principle 5: Resource, Energy and Water Efficiency</i>	<p>A BASIX Certificate has been submitted in respect of the proposal and does achieve recommended targets.</p> <p>General location and orientation of the building being south/east north/west affords good solar access to apartments facing Victoria Road. It is also noted that the courtyard arrangement affords direct solar access at particular times throughout the day to the rear units located on the Formosa Street side. Cross ventilation and circulation provided to the building also reduces reliance on artificial heating and cooling.</p> <p>Stormwater concept plans have been submitted and supported by Council's Engineer subject to conditions.</p>

<b>Key Principles of SEPP 65</b>	<b>Response</b>
	<p>The proposal includes a reasonable area communal landscaping and additional private planter beds. Conditions of consent are included requiring the applicant to provide appropriate vegetation and to demonstrate that ongoing maintenance and survival is effectively sustainable.</p> <p>Residential and commercial waste storage and recycling facilities are also provided.</p>
<i>Principle 6: Landscape</i>	<p>The proposal includes communal open space area to the south/west of the site in the form of a central courtyard area. This area will enable the incorporation of vegetation to provide amenity to the area for the residents, employees and visitors.</p> <p>A communal open space area is also provided to the eastern component of the building above the podium level parking area. The elevation and orientation of this area along with specific landscape treatment which provides a mix of hard and soft covers will provide effective amenity to users and an attractive outlook when viewed from residential apartments.</p>
<i>Principle 7: Amenity</i>	<p>Residential units have been designed to be consistent with SEPP 65. All units have been provided with private open space areas in the form of private terraces. Natural light and ventilation has also been provided to apartments including a large proportion of units with dual aspect.</p> <p>Residential apartments, parking, waste/private storage areas and the main communal open space area are easily accessible via internal lifts and stairs at either end of the building.</p> <p>An Accessibility Report prepared by Architecture and Building Works, dated September 2011 has been supported by Council's Accessibility Committee.</p> <p>The site is located along a main public transport corridor and close to public parks, foreshore walks and services generally.</p> <p>Visual amenity of the residents located in Conservation Area A (Bourketown Conservation Area) opposite the site along Formosa Street, has also been considered. The design incorporates a landscaped central courtyard area that is visible from residential properties opposite and directly accessible to the public from the footpath including the pedestrian link between Victoria Road and Formosa Street. The overall building form has been tapered down from Victoria Road toward Formosa Street in order to provide a lower scale and more appropriate visual presentation from the perspective of the low density residential zone opposite to site. The tapering down of the building form also ensures that overshadowing will not cause any significant impact to those dwellings opposite the site.</p>
<i>Principle 8: Safety and Security</i>	<p>Easily identifiable and safe access points have been provided to the building both for pedestrians and vehicles from the Formosa Street side.</p>



<b>Key Principles of SEPP 65</b>	<b>Response</b>
	<p>In the absence of ground level residential apartments the introduction of retail space along the Victoria Road façade will generate activity and pedestrian movement that is enhanced by a pedestrian link between Victoria Road and Formosa Street.</p> <p>The central courtyard proposed on the Formosa Street side provides communal open space for private residents, visitors and shoppers and a small retail outlet thereby activating the area around the main residential access points and offering casual surveillance for better safety and security.</p> <p>Security and safety at the street level generally is considered acceptable.</p>
<i>Principle 9: Social Dimensions and Housing Affordability</i>	<p>The proposal increases the housing supply with a mix of 1, 2 &amp; 3 bedroom units and adaptable units in close proximity to public transport, employment opportunities and other retail uses supporting housing affordability.</p> <p>The mix of 1, 2 and 3 bedroom apartments will encourage a social mix within the local government area.</p> <p>In addition, 10% of the units are designed to be adaptable.</p>
<i>Principle 10: Aesthetics</i>	<p>In terms of materials and finishes, the proposal incorporates a variety of painted cement render surfaces with darker faced brickwork, and contemporary architectural features like prefinished metal louvres and glass balustrades. The combination of materials and colours provides for a pleasing aesthetic that references the traditional character of the area at the same time as adopting a modern and contemporary form.</p>

#### **Residential Flat Design Code (Clause 30 (2) (c) of SEPP 65)**

<b>Part 1 – Local Context</b>	<b>Consideration</b>
<b>Primary Development Controls</b>	
<i>Building Height</i>	The building is not compliant 15m numerical height provision of the Canada Bay LEP.
<i>Building Depth</i>	<p>The Code states the maximum building depth for apartment buildings should be 18m. If greater than this, it should be demonstrated that units still achieve adequate daylight and natural ventilation.</p> <p>The proposal provides various building depths that are well below the maximum 18m, therefore compliant with the SEPP.</p>
<i>Building Separation</i>	<p>The proposal includes a courtyard form which results in some units located on the Formosa Street side facing each other. The proposal also includes smaller internal courtyards at either end of the building.</p> <p>Building separation between habitable rooms includes a minimum of 6.0m. This occurs within the two light wells located on either of the building at the side boundaries. Louvres are included to</p>

	<p>window openings to ensure privacy and light to the bedrooms.</p> <p>Building separation between habitable and non-habitable spaces with the communal courtyard area are generally consistent with the guidelines in the SEPP. Building separation includes 12.64m between balcony to balcony and between 14.79m and 15.95m from habitable to habitable space.</p> <p>Generally, the orientation of living rooms and balconies, combined with the use of privacy mechanisms such as solid or obscure glass balustrades and louvre privacy screens maintains and adequate level of residential amenity.</p>
<i>Street Setbacks</i>	<p>The SEPP aims to establish the desired spatial proportions of the street and define the street edge; to create a clear threshold by providing a transition between public and private space; to assist in achieving visual privacy to apartments from the street; to create good quality entry spaces to lobbies, foyers or individual dwelling entrances; to allow an outlook to and surveillance of the street, and to allow for street landscape character.</p> <p>The proposal provides street edge alignments to both Victoria Road and Formosa Street as required by Council's DCP.</p> <p>The proposal including conditions of consent achieve clearly defines private and public areas.</p> <p>Privacy between the street and residential units is achieved by a combination of conditions of consent, perimeter planter boxes and obscure glazing.</p> <p>The proposal provides adequate entries and foyers for individual units with minimal distance points between access points and private entries.</p>
<i>Floor Space Ratio</i>	<p>The SEPP aims to ensure that development is in keeping with the optimum capacity of the site and the local area; to define allowable development density for generic building types; to provide opportunities for modulation and depth of external walls within the allowable FSR; to promote thin cross-section buildings, which maximise daylight access and natural ventilation.; to allow generous habitable balconies.</p> <p>The proposal is fully compliant with maximum allowable floor space.</p> <p>The proposal adopts a thin cross-section design that maximises daylight access and natural ventilation. This along with tapering down the form toward the low density area opposite in Formosa Street has resulted in an uplift of building bulk toward the Victoria Road end.</p> <p>The proposal provides for generous habitable terraces to each dwelling.</p>

## **Part 2 – Site Design - Primary Development Controls**

### *Deep Soil Zones*

The SEPP aims to assist with management of the water table. To assist with management of water quality; and to improve the amenity of developments through the retention and/or planting of large and medium size trees.

The existing site does not contain any deep soil planting or significant vegetation.

The proposed landscape area on the first floor podium is designed to improve residential amenity to both existing surrounding residents in Formosa Street and future residents at the site.

The proposed landscape treatment is enhanced by the proposed setbacks, concentration of building bulk towards Victoria Road and provision of a central communal open space area.

Considering that larger trees would be difficult to grow in restricted soil depths, conditions have been included to ensure that appropriate landscape vegetation and irrigation system is adopted in order to ensure survival.

### *Fences & Walls*

Definition between public, private and commercial domain has been clearly indicated on the architectural plans.

### *Landscape Design*

The proposal includes a landscape concept plan that provides communal open space for both public and private. Accessibility to the area is enhanced by a pedestrian link between Victoria Road and Formosa Street.

As discussed above, conditions have been applied to ensure appropriate species of plants and irrigation methods are selected and adopted and additional planter boxes are provided to private terrace areas.

### *Open Space*

The area of communal open space required should generally be between 25 and 30 percent of the site area. Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in contribution to public open space. The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m<sup>2</sup>; the minimum preferred dimension in one direction is 4 metres.

The site does provide both public open space and communal open space of approximately 15% however the space is also available to visitors, the public and future retail patrons.

	<p>Upper level units are provided with generous terrace areas, some with substantial amenity.</p> <p>Apartments on the Formosa Street side have been provided with adequate private open spaces and are well connected to the central communal space.</p>
<i>Orientation</i>	37 of the proposed 60 units have dual aspect. This reduces demand for mechanical heating and cooling and increases the thermal efficiency of the new building.
<i>Planting on structures</i>	Conditions have been applied to ensure appropriate plant species are selected with irrigation systems that will ensure survival. Additional planter beds are also conditioned.
<b>Site Amenity</b>	
<i>Stormwater Management</i>	Suitable conditions have been incorporated to ensure adequate stormwater management.
<i>Safety</i>	<p>A crime risk assessment has been undertaken for the development.</p> <p>Openings from units overlook the public domain and pathways internal to the site.</p> <p>All units have been orientated and separated to minimise overlooking, whilst ensuring passive surveillance of open spaces.</p> <p>Secure basement parking, and internal corridors and lobbies are provided.</p> <p>Blind corners have been avoided throughout the development.</p> <p>Building entries and access ways are clearly identifiable elements of the proposal, and provide residents with a direct connection to streets and public areas.</p> <p>Safety is acceptable with retail uses at grade stimulating activity and casual surveillance including pedestrian access between Victoria Road and Formosa Street during business hours.</p>
<i>Visual Privacy</i>	Adequate separation and privacy devices have been provided between the subject building and adjacent sites. Conditions of consent include planter beds to the perimeter of particular private terraces
<i>Building Entry</i>	Clear, readily identifiable and accessible entry is provided to the building from the street frontage and does allow clear orientation by visitors.
<b>Site Access</b>	
<i>Parking</i>	Parking provided is largely compliant (conditions apply).

	Proximity of the site to public transport services is also considered beneficial.
	Parking is located below ground.
<i>Pedestrian Access</i>	Development is readily accessible from and between the primary street frontage, podium (communal) area and through to the secondary street frontage. An Access Report demonstrating compliance was also submitted in respect of the proposal and supported by Council's Access Committee.
<i>Vehicle Access</i>	Car parking/access is provided from the 'preferred' street frontage as stipulated within the DCP and required by the RTA has been well integrated within the building design.
<b>PART 03 - BUILDING DESIGN</b>	
<b>Building Configuration</b>	
<i>Apartment Layout</i>	<p>A total of 37 of the proposed 60 units have dual aspect. This maximises available levels of solar access and natural ventilation.</p> <p>All of the proposed units (100%) have back of kitchens less than 8.5m from a window.</p>
<i>Apartment Mix</i>	<p>The proposal incorporates a good mix of one, two and three bedroom units.</p> <p>The proposal also includes 10% of total units as adaptable.</p>
<i>Balconies</i>	<p>All main balcony areas have a minimum dimension of 2.4m and minimum area of 10m<sup>2</sup>.</p> <p>The balconies are appropriate to the architectural form and associated landscaping for the site.</p> <p>All units have balconies that act as extensions of living areas.</p> <p>The proposed balconies enhance the amenity and lifestyle choices of residents. The balconies and associated landscaping within the proposal demonstrates a positive integration with the overall architectural built form.</p> <p>The balconies within the proposal are seen as functional and responsive to the environment, whilst improving solar access to all units.</p>
<i>Ceiling Height</i>	<p>All ceiling heights can comply with the RFDC. The floor to floor heights for the proposal are:</p> <ul style="list-style-type: none"> <li>- 4.5m for ground floor (3.5m ceiling height recommended)</li> <li>- 2.9m for all remaining levels except top floor of 2.7m (2.7m ceiling height recommended)</li> </ul>
<i>Flexibility</i>	<p>The units provide room sizes that enable various furniture layouts.</p> <p>The internal configuration of the units is considered</p>

	<p>appropriate to accommodate various housing needs and lifestyle choices.</p> <p>The units provide adequate bedroom sizes.</p> <p>The development's lift system is capable of serving all units from the basement area up.</p>
<i>Ground Floor Apartments</i>	<p>Ground floor apartments have been provided at the podium level connecting to the communal open space.</p> <p>It is noted that a separate relatively small retail tenancy has also been provided on this level addressing the communal open space and with close access to Formosa Street footpath.</p>
<i>Internal Circulation</i>	<p>A maximum of 8 units are located off one corridor. The glazed corridor provides a high level of amenity to ground and first floor levels.</p> <p>An appropriate number of units are dual aspect apartments, increasing available levels of solar access and cross ventilation of apartments.</p> <p>The design of the development facilitates interaction amongst residents, whilst ensuring high residential amenity within units.</p>
<i>Mixed Use</i>	<p>A large retail tenancy is proposed to the Victoria Road frontage and a small single retail tenancy is also provided addressing the communal open space on the Formosa Street side.</p> <p>Given the location of the primary retail tenancy along Victoria Road, this will activate the street frontage with minimal impact upon residential amenity.</p>
<i>Storage</i>	<p>The architectural plans indicate sufficient storage areas have been allocated for each residential apartment, both within the apartment itself and at the residential parking level of the building. The applicant amended plans to include additional storage compartments above each vehicular parking space. The exact volume has not been confirmed however the 3m floor to floor height suggests a reasonable depth can be achieved to each storage compartment. A condition of consent has been applied to ensure that the total volume of storage space required by the SEPP will be provided.</p>
<b>Building Amenity</b>	
<i>Acoustic Privacy</i>	<p>Bedrooms are located away from the main living areas.</p> <p>Party walls between apartments have been minimised.</p> <p>An assessment of acoustic implications from Victoria Road traffic and aircraft noise was also</p>

	submitted and the proposal deemed compliant subject of conditions.
<i>Daylight Access</i>	<p>It is noted that SEPP 65 does ordinarily require 70% of apartments receive 3 hours solar access between 9am and 3pm (in dense urban areas 2 hours may suffice).</p> <p>42 (71%) units receive 3 hours of sunlight to the living area.</p> <p>6% of apartments within the proposal have been provided with singular southerly aspects.</p>
<i>Natural Ventilation</i>	<p>As outlined above the building is considered consistent with building depth provisions and cross ventilation.</p> <p>All habitable rooms are naturally ventilated.</p>
<b>Building Form</b>	
<i>Facades</i>	Building facades are generally considered well designed with effective articulation and appropriate materials and colours provided.
<i>Roof design</i>	The roof design proposed is a flat roof structure and is consistent with surrounding commercial development.
<b>Building Performance</b>	
<i>Energy Efficiency</i>	A BASIX certificate was submitted in respect of the application demonstrating target passes
<i>Waste Management</i>	A waste management plan was submitted with appropriate storage and recycling areas provided within the first floor level of the development
<i>Water conservation</i>	Satisfactory stormwater plans have been submitted

**Canada Bay Local Environmental Plan 2008**

<b>Provision</b>	<b>Provided</b>	<b>Compliance</b>
Zoning - B4 Mixed Use	Permissible	Yes
Floor Space Ratio - 3:1 (Area 3 - for sites greater than 2000m <sup>2</sup> ) (clause 4.4(A))	3:1	Yes
Building Height - 15m (clause 4.3(2))	19m (maximum)	No (see section 5)

**Clause 4.6 Exceptions to development standards**

Clause 4.6 allows variation to a control where a written request is made by an applicant demonstrating that two criteria are met. The criteria to be satisfied are that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard.

The applicant has submitted a statement seeking variation to the building height development standard.

The objectives of the provision would also need to be satisfied and they are:

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

As such, exercising this power should only be done when it will result in a better outcome for the development if the standard is breached. A breach of the standard can only be permitted where the written request by the applicant adequately addresses the two criteria listed above, and that the development will be in the public interest consistent with the objectives of the particular standard and those for the zone and the concurrence of the Director-General has been obtained.

The applicant has provided the following justification for the building height variation:

*Strict adherence to the to the LEP standard and DCP control is:*

- *Unreasonable, because there are no compelling grounds not to support the requests;*
- *Unreasonable as the proposed variations in the requests demonstrate that improved amenity, environmental, built form and streetscape outcome is achieved compared to a development that complies with the standard controls in this instance;*
- *Unnecessary because the objectives of the height envelope control ensure compatibility with the context is better served by a development that contributes to compatibility and character of the locality;*
- *Unnecessary in the context of privacy and views objectives because there are no privacy impacts or views that will be materially affected by the development;*
- *Unnecessary in the context of the objective of achieving compatible bulk and scale as the perceived bulk of the building, will generally not be altered by support to the requests;*
- *Unnecessary in the context of the objective of projecting heritage as the heritage curtilage and values of the heritage conservation area will not be negatively impacted by support to the requests;*
- *Unnecessary because objective to minimise environmental impact are better served by the proposed development; and*
- *The request is in the public interest because it is consistent with the objectives of the LEP standard and objectives for development within the zone in which the development is proposed to be carried out.*

Comment: Clause 4.6 *Exemptions to Development Standards* in Council's LEP provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The applicant's written request for exemption from the building height standard has been considered. The justification given in the submission is considered satisfactory with regard to matters under clause 4.6(3)(a) & (b) and consistent with the objectives of the standard and the objectives for development within the subject zone.

Compliance with the building height standard in this particular circumstance is considered unreasonable and unnecessary for the following reasons:

- i. The height above the maximum allowable is restricted toward the Victoria Road side of the site and at the same time the proposal maintains consistency in building height with newer development adjoining on either side of the site at the street alignment. This has been achieved by setting back the upper most floor (Fifth floor) facade away from the Victoria Road alignment approximately 1.9 metres to the terrace balustrade and approximately 5.7 metres to the external façade. The north/western side wall is set also set back approximately 1.9m from the side boundary. Further, a condition of consent has been applied to setback the fifth floor south/western external wall a minimum of 900mm in order to add further articulation and minimise the appearance of bulk from the Formosa Street side.



- ii. The site does not contain a heritage item nor is it located within a conservation area. However, the proposal does respect the adjoining Conservation Area A in Formosa Street opposite the site by utilising architectural elements to emphasise the horizontal and stepping the form from a maximum of two storeys along Formosa Street away toward Victoria Road for the upper levels.
- iii. There are sufficient environmental planning grounds in which to support the non-compliance. Compliance with the standard is not likely to result in any major benefit with regard to overshadowing, bulk and scale or views. Otherwise, the proposal is fully compliant with the maximum floor space ratio standard in the LEP and considered satisfactory with regard to street setbacks prescribed in the DCP and in context with adjoining development.
- iv. The proposal will provide a mix of quality housing with good amenity and positively contribute to further activation of the commercial strip along Victoria Road.
- v. The uplift of the building form toward Victoria Road side will provide for a large ground floor level retail tenancy to Victoria Road, a lesser intensive boutique sized retail tenancy on the Formosa street side that is consistent with newer commercial development along Formosa Street, and will also allow for communal open space on the Formosa Street side to benefit of both public and private use. The proposal also facilitates additional public benefit by including a pedestrian link between Victoria Road retail and Formosa Street.
- vi. Materials and finishes and overall building form have been well considered to enhance and complement the commercial façades along Victoria Road and to reflect the traditional character of the low density residential area opposite the site within Conservation Area A.
- vii. Landscaping will be provided within the communal open space contributing increased amenity in this regard to an area that is otherwise deficient.

#### Acid Sulphate Soils

Part 6.1 of the Canada Bay Local Environmental Plan 2008 states that Council must not grant consent unless it has considered the likelihood of the proposed development resulting in the lowering of the water table below 1m AHD on adjacent Class 1, 2, 3 and 4 land.

The subject site is classified as Class 5 Acid Sulphate Soils under the Canada Bay Local Environmental Plan 2008.

The applicant has submitted a Geotechnical Report prepared by Aargus Australia, dated August 2011. The report concluded that '*Potential Acid Sulphate Soils (PASS)*' were **not detected** at any depth up to 3.5m BGL.'

The proposal includes excavation beyond the level of that tested under the applicant's report. Therefore the following condition of consent is recommended as a precautionary measure to control any possible acid sulphate soils that may arise.

#### **Acid Sulphate Soils:**

*Any excavation works carried out on the site should be closely monitored to ensure no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site is to cease immediately, council is to be notified and a suitably qualified environmental consultant is to be contacted to further assess the site.*

#### **City of Canada Bay Development Control Plan 2008 [Section 79C(1)(a)(iii)]**

The proposed development is affected by the provisions of the *City of Canada Bay Development Control Plan 2008*.

### **7.1 General Objectives**

*O1 To facilitate the development of ALL commercial areas in a way that is economically sustainable and environmentally sensitive*

Comment: The proposal is considered satisfactory with regard to economically sustainable and environmentally sensitive development for the following reasons:

- Stormwater management details have been satisfied subject to conditions of consent
- Distribution of the residential units into courtyard built form with a podium level communal open space area to provide ongoing amenity, natural light and cross ventilation
- The BASIX Certificate indicates compliance with Water, Thermal Comfort and Energy targets
- The proposal will contribute to increased commercial activity and street interconnectivity between Victoria Road and Formosa Street
- The proposal includes the addition of a mix of housing stock for the local area, from one to three bedroom units and six adaptable units

*O2 To encourage development that is compatible with the character and form of existing development in the area*

Comment: It is considered that the bulk and scale of the proposal is compatible with adjoining newer commercial and mixed-use development along Victoria Road. The proposed building form adequately transitions down to the small scale intimate character of the conservation area opposite the subject site in Formosa Street.

The contemporary design and materials and colours selected respect the surrounding traditional character of the area and are consistent with development that is desirable for the future character of the area.

*O3 To encourage the revitalisation of the commercial areas by enabling mixed use development including residential in certain areas*

Comment: The proposal includes a mixed-use development with a large commercial tenancy at ground level to the primary street frontage (Victoria Road) with a total of 60 residential units above including a mix one, two and three bedroom units including six adaptable units. First floor also provides a smaller commercial tenancy with direct access to the podium communal open space level setback approximately 3 metres from Formosa Street. A commercial element faces the central courtyard and its inclusion is consistent with recent commercial development adjoining the site along Formosa Street.

*O4 To ensure bulk and scale of development is compatible with amenity of surrounding area*

Comment: The proposal fully complies with FSR however not with the maximum height control prescribed under the LEP. The proposal is however is considered reasonably consistent with the 3D building envelope as prescribed in the DCP - Illustration 7.2, and with adjoining newer development along the commercial strip. The relationship between the required building envelope under the DCP, the proposed building envelope and building envelopes of adjoining buildings already built has been illustrated on the submitted drawings. Refer to the elevational drawings above. As discussed, the non-compliant sections of boundary walls toward Formosa Street side have been finished with traditional darker face brick to minimise visual bulk. Also as previously discussed, the rise of these side boundary wall sections will be further mitigated as viewed from a streetscape perspective.

*O5 To ensure development contributes to the improvement and amenity of public places*

Comment: The proposal is satisfactory with regard to its relationship to Victoria Road including a consistent zero building alignment and shop-front entry directly accessible from the footpath.

The rear frontage on the Formosa Street side provides a driveway crossing access to the basement parking at one end of the building and a separate driveway crossing at the other end for loading/unloading and waste collection. This in effect reduces traffic and parking impacts by separation of activity.

The proposal includes wheelchair and general pedestrian access to the commercial tenancies and public areas directly off Victoria Road and Formosa Street. The residential units above can all be accessed from Formosa Street and the basement parking levels therefore any conflict between residents on site and shoppers is eliminated. Pedestrian access is also enhanced by the inclusion of a link between Victoria Road and Formosa Street.

The proposal is considered satisfactory with regard to the general objectives in the DCP.

## 7.2 Building and Design

The proposal satisfies the objectives with regard to building and design for the following reasons:

- The prevailing pattern of newer building development as it presents to Victoria Road is complemented and enhanced by the proposed infill development
- The proposed infill development makes a positive contribution to the character of the street
- The commercial shop front to Victoria Road presents clearly and the proposal maintains a zero street alignment
- The proposal includes the use of a footpath awning that is derived from traditional form however presents as a more contemporary design in steel and glass consistent with adjoining development. The awning will assist in providing a human scale and weather protection
- Both street frontages have been adequately addressed in the design
- All required car parking has been provided on-site as conditioned

## 7.3 Retail frontages

The proposal is satisfactory with regard to retail frontages for the following reasons:

- The proposal is compatible with surrounding development with regard to architectural proportions
- A zero building alignment to the Victoria Road frontage has been maintained with a human scale and with easy access directly off Victoria Road including a pedestrian link to the Formosa Street side

## 7.4 Visual and acoustic privacy

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

Comment: The proposal demonstrates adequate visual and acoustic privacy for the following reasons:

- The habitable rooms/balconies of the residential units are separated by common dividing walls
- All units are adequately separated for privacy
- Acoustic recommendations as per the applicant's Acoustic Assessment have been conditioned

As well as all recommendations in the applicant's Acoustic Assessment being conditioned, The following condition of consent is also included.

### **Noise Attenuation from a Main Road**

*All residential units fronting Great North Road must comply with Australian Standard 3671: Acoustics—Road Traffic Noise Intrusion. Details are to be provided **prior to the issue of a Construction Certificate**.*

*(Reason: Noise attenuation)*

Other conditions included to assist in mitigating privacy concerns include additional planter boxes around the larger terraces and the use of obscured glazing to selected balustrades.

## 7.5 Safety and Security

The proposal is considered satisfactory with regard to safety and security for the following reasons:

- Open access to commercial tenancies is encouraged via direct street access
- Residential units have direct lift access from the basement carparking levels and the communal open space area
- Residential units all have security access via security lobbies
- The pedestrian link between Victoria Road and Formosa Street will be locked after business operating hours

## 7.6 Daylight and sunlight access

*O1 To ensure that daylight access is provided to all habitable rooms and other areas to improve amenity and energy efficiency*

Comment: The site is orientated along the south/east-north/west axis. Daylight access is provided to all habitable rooms and 37 of the proposed 60 units have dual aspect.

*C1 Direct solar access (sun shine) to windows of principal living areas and the principal area of open space of dwellings adjacent to commercial zones should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June*

Comment: The applicant's shadow diagrams indicate that direct solar access to windows of principal living areas is adequate. 42 (71%) units receive 3 hours of direct sunlight to the living area. The proposal is considered satisfactory with regard to the provision of direct solar access.

## 7.7 Building Envelope Controls and Site Specific Design Controls

*O1 To ensure buildings address the street and create street enclosure*

Comment: The proposed infill development maintains shop front alignment to the primary frontage along Victoria Road.

*O2 To ensure front setbacks maintain the continuity of setbacks in the street*

Comment: As discussed above, the proposed infill development maintains a consistent zero building alignment to the Victoria Road frontage. The Formosa Street side has staggered building alignments from zero to approximately 22.6m due to the partly enclosed loading dock, entry/exit to the basement parking and the central communal open space area. The variety of street setbacks is not inconsistent with varying street setbacks to newer development adjacent and in the near vicinity to the subject site along Formosa Street.

*O3 Ensure buildings are of a height and scale which is consistent with the character of the area*

Comment: The building height at the rear of the development is considered acceptable with regard to newer commercial and mixed-use development either side of the site and the smaller scale intimate character of the low density residential zone opposite the site across Formosa Street.

The varying setbacks and the breaking up of bulk and increased setbacks toward Victoria Road as the building rises will avoid a dominant street presentation against the smaller scale character of Formosa Street opposite the site within Conservation Area A.

It is considered that the architectural elements and colours employed in façades facing Formosa Street further reduce the appearance of bulk and generally emphasize the horizontal to complement the low density residential character of the adjoining land use zone.

The upper most floors are setback between approximately 14 and 23 metres from the Formosa Street alignment.

#### *04 To maintain the privacy and amenity of adjoining and nearby residential developments*

It is considered that the visual amenity of residents from Formosa Street will be adequately maintained. As discussed above, specific conditions have been applied to ensure that particular balustrades are fitted with obscured glazing or solid masonry planter boxes are added to improve visual interest and amenity and restrict access to the balustrade edge of larger terrace area.

#### **7.7.1 Victoria Road, Drummoyne**

The subject site is within a commercial area that is undergoing a transition.

The future character of Victoria Road, Drummoyne as stated in the DCP includes the following relevant objectives:

- *Emphasise a distinctive "busy" urban quality - develop as an area of larger, service orientated commercial and office uses;*

Comment: The proposed infill development is considered consistent with a distinctive "busy" urban quality compatible with adjoining newer development on either side.

- *Encourage mixed use development to create a thriving urban area with retail, residential and commercial uses; and*

Comment: The proposal incorporates mixed use development including residential and ground floor space for potential use of a variety of commercial uses.

- *Encourage street edge development to activate the street and encourage a dynamic urban area.*

Comment: The proposed development incorporates street edge development.

Victoria Road is a complex and varied area. Unique controls have been developed for 6 key precincts within the commercial area. These have been developed in response to the streetscape, type and form of building and relationship with adjoining areas. The subject site is located within Area 3 of the precinct. The following additional relevant site specific controls apply:

- *C13 - Maximum building height is 4 storeys at Victoria Road tapering down to 2 storeys along Formosa Street. The 2 storey development should extend for a minimum depth of 1/3 of the site east of Formosa Street*

Comment: The proposal tapers down to 2 storeys along the street edge sections of the building in Formosa Street however the building rises to 5 storeys along the Victoria Road street edge.

- *C14 - Street edge development is required along Victoria Road and Formosa Street*

Comment: The proposed development incorporates street edge development to both Victoria Road and Formosa Street.

- *C15 Roof form at Formosa Street is a parapet edge*

Comment: The street edge development along Formosa Street will incorporate a parapet edge in the form of a solid masonry design planter box (conditioned).

#### **7.8 Parking**

*O1 To ensure development incorporates adequate parking*

Comment: The proposal will provide preferred driveway crossing entrances from the Formosa Street side. A driveway crossing for the entry/exit point to the basement car parking level and a separate driveway crossing is provided to service the on-site loading dock and waste collection area.

The proposed development achieves full compliance (conditioned) with the parking controls applicable to the development under Council's DCP. This is discussed further below under section 5 - *Traffic generation, parking and loading* above.

## APPENDIX B – SUBMISSIONS

Public Submissions received in respect of notification

<b>Name</b>	<b>Address</b>
Mr R De'Kelly & Ms C Groom (The Stool Shop)	2/147B Victoria Road, Drummoyne NSW 2047
Mr M Hanna	14/2A Church Street, Drummoyne NSW 2047
Mr A Dimmos	45 Formosa Street, Drummoyne NSW 2047
Mr M Leckie & Ms J Mitchell	57 Formosa Street, Drummoyne NSW 2047
S P Nasti (S.P. Nasti & Co Solicitors, Attorneys & Public Notary on behalf of owner of Lot 29 strata plan 85112 level 1, 135 Victoria Road, Drummoyne and Prolet Pty Ltd, developers and strata owners in 135 Victoria Road, Drummoyne)	PO Box 145 Drummoyne NSW 1470
Ms J-A Tooth & Mr S Gatward	55 Renwick Street, Drummoyne NSW 2047
Mr J Tzaferis (owner of 47 Formosa Street, Drummoyne)	1 Australia Street, Croydon NSW 2132
Ms J Campbell	1 Plunkett Street, Drummoyne NSW 2047
Don Fox Planning for Mr K & Mrs L Macay of 49 Formosa Street Drummoyne NSW 2047	DX 4721, Pennant Hills NSW
Ms T Bissett	51 Formosa Street, Drummoyne 2047
Ms K Evans	53 Formosa Street, Drummoyne NSW 2047
Mr P McDonald	2 Church Street, Drummoyne 2047

## APPENDIX C - CONDITIONS OF CONSENT

### **GCP1 Approved Plans and Supporting Documents**

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<b>Reference/Dwg No</b>	<b>Title/Description</b>	<b>Prepared By</b>	<b>Date/s</b>
20110702.1	Acoustic Report	Acoustic Logic	22/07/2011
A-010 - Issue 4	Lower Basement Plan	Architecture and Building Works	16/01/2012
A-011 - Issue 4	Upper Basement Plan	Architecture and Building Works	16/01/2012
A-012 - Issue 4	Ground Floor Plan	Architecture and Building Works	16/01/2012
A-013 - Issue 4	First Floor Plan	Architecture and Building Works	16/01/2012

A-014 - Issue 4	Second Floor Plan	Architecture and Building Works	16/01/2012
A-015 - Issue 4	Third Floor Plan	Architecture and Building Works	16/01/2012
A-016 - Issue 4	Fourth Floor Plan	Architecture and Building Works	16/01/2012
A-017 - Issue 4	Fifth Floor Plan	Architecture and Building Works	16/01/2012
A-018 - Issue 4	Roof - Site Plan	Architecture and Building Works	16/01/2012
A-019 - Issue 4	Adaptability Details	Architecture and Building Works	16/01/2012
A-020 - Issue 4	Elevations	Architecture and Building Works	16/01/2012
A-021 - Issue 4	Elevations	Architecture and Building Works	16/01/2012
A-022 - Issue 4	Section	Architecture and Building Works	16/01/2012
388177M	BASIX Certificate		
ES4458	Preliminary Environmental Site Assessment (Phase 1)	Aargus Australia	August 2011
Front and rear artist impressions	Materials and Finishes	Architecture and Building Works	No date
No Ref.	Waste Management Plan	Theo Lucas - Architecture and Building Works	28/9/2011

**Note 1:** Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.

**Note 2:** A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.

**Note 3:** The approved plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).

(Reason: To confirm and clarify the terms of consent)

#### **Adaptable Units**

The development is approved with the following residential units for adaptable use as indicated on the approved architectural plan No. A-019 - Issue 4, dated 16 January 2012.

- Unit 1.11
- Unit 1.12
- Unit 2.12
- Unit 2.13
- Unit 3.11
- Unit 3.12

(Reason: To confirm and clarify terms of consent)

#### **GCP4 Construction within Boundary**



All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.

*(Reason: To ensure compliance with approved plans)*

#### **GCP9 Separate Approvals**

Separate Development Approval shall be obtained for the future use, operation and any associated signage of retail/commercial spaces indicated on the approved plans.

*(Reason: To control the future development of the site)*

#### **GCG1 Australia Post Guidelines**

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at [www.auspost.com.au](http://www.auspost.com.au). A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

*(Reason: To ensure compliance with mail delivery regulations)*

#### **GCG2 Compliance with Disability Discrimination Act**

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

*(Reason: To inform of relevant access requirements for persons with a disability)*

#### **GCG7 Lighting**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.

*(Reason: Protect amenity of surrounding area)*

#### **GCG8 Materials & Finishes Schedule**

The development shall be constructed and finished in materials and colours as indicated in the approved Materials and Finishes documentation.

*(Reason: Visual amenity)*

#### **GCG10 Site Management**

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;

- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

*(Reason: Environmental protection)*

#### **GCG12 Street Numbering of Lots and Units**

The proposed units and/or new allotments shall be numbered as follows:-

- 125 Victoria Road, Drummoyne - Retail tenancy addressing Victoria Road
- 54 Formosa Street, Drummoyne (including consecutive and logical unit numbers from first floor level to fifth floor level) - Residential Units
- 54A Formosa Street, Drummoyne - Retail tenancy on first floor level

Numbering of units/properties shall be conspicuously displayed at the front of the property and shall be maintained in accordance with Council's Street Numbering Policy.

Should the property be strata subdivided, the approved numbering system shall be included in the final plans of strata subdivision.

*(Reason: Identification of Property for Emergency Services and Mail Deliveries)*

#### **GCG15 Telecommunications /TV Antennae**

No more than one telecommunications/TV antenna will be provided to each dwelling/building.

*(Reason: Environmental amenity)*

#### **GCG16 Tree Preservation**

All street trees and trees on private property that are protected under Canada Bay Council's controls, shall be retained except where Council's prior written consent has been obtained.

*(Reason: Tree preservation)*

#### **GCH1 Hoarding Requirements**

The approved development includes/requires either "A" Class or "B" Class or both type hoarding. The applicable hoarding requirements are as follows:

- **"A" Class Requirements**  
An engineer certified "A" Class hoarding shall be constructed on the footpath adjacent to the building site to protect pedestrians during demolition of the existing building and construction of the new building.
- **"B" Class Hoardings**  
An engineer certified overhead "B" Class hoarding, complying with the requirements of the Department of Industrial Relations & Technology, shall be constructed over Council's footpath to protect pedestrians during demolition of the existing building and the erection of the new building.

**A formal hoarding application shall be made to Council and demolition or construction work must not commence** until the hoarding has been erected and then approved by Council and all applicable fees and charges paid.

*(Reason: Public safety)*

**GCH 4 Ventilation**

To ensure that adequate provision is made for ventilation of the premises, mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- *The Building Code of Australia;*
- *Protection of the Environment Operations Act 1997;* and
- Relevant Australian Standards

*(Reason: Compliance with relevant standards)*

**GCH 5 Waste Management**

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

*(Reason: Compliance with approval)*

**GCD1 Approved Stormwater Drainage Design**

The stormwater drainage system for the proposed development shall be constructed in accordance with the following approved plans and documentation, endorsed with Council's Stamp, and Council's "Specification for the Management of Stormwater", except where amended by other conditions of consent:

Drawing No.	Prepared by:	Dated:
11AH160 (revision C)	Australian Consulting Engineers Pty Ltd	25 November 2011

**Important Note:** Should any changes be required to the approved stormwater drainage plan as referred to above, the amended design shall achieve equivalent performance standards in accordance with Council's "Specification for the Management of Stormwater".

*(Reason: Stormwater management)*

**Conditions which must be satisfied prior to the commencement of demolition of any building or structure****PCR1 Construction Certificate - Prior to the Commencement of any Demolition Works**

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of erection of building" pursuant of section 81A(2) of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the **issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.**

*(Reason; Statutory Requirement)*

**PCR2 Demolition**

(a) That five (5) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:

- The date when demolition will commence,
- Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer.
- The licence number of the demolisher, and relevant WorkCover licenses, (see minimum licensing requirements in (d) below, and
- Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$10,000,000.00.

- (b) Demolition of buildings and structures must comply with all current and relevant Australian Standards.
- (c) **If the works require a Construction Certificate**, work shall not commence until the Principal Certifying Authority (PCA) has inspected the site. Should the building to be demolished be found to be wholly or partly clad with or contain asbestos cement products, approval to commence demolition shall not be given until the PCA is satisfied that all measures are in place so as to comply WorkCover's *Guide to Working with Asbestos*.

**Note:** A copy of this publication can be obtained from WorkCover Authority's website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

- (d) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover 'Demolition License' AND a current WorkCover 'Class 2 (Restricted) Asbestos Licence'.
- (e) In addition to the above provisions, any work carried out on asbestos cement products must be in accordance with those provisions relating to asbestos cement within the NSW Construction Safety Act 1912 Regulations 84A-J *Construction Work Involving Asbestos or Asbestos Cement 1983, as amended 1984*.
- (f) Demolition works are restricted as follows:
  - Monday to Saturday inclusive 7:00am - 5:00pm
  - Sundays and Public Holidays No work
- (g) At least five (5) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:
  - The date when demolition will commence;
  - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
  - The telephone number of WorkCover's Hotline (02) 8260 5885.

*(Reason: To ensure compliance with the relevant legislation and to ensure public and work safety)*

### **PCR3 Site Safety Fencing - Demolition only**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing **must be erected before the commencement of any demolition work** and maintained.

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition works.

#### *Hoardings*

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

*(Reasons: Statutory Requirement and health and safety)*

**PCR4 Tree Preservation - during demolition**

All street trees and trees on private property that are protected under Canada Bay Council's controls, shall be retained and protected during demolition works except where Council's prior written consent has been obtained.

*(Reason: Tree Preservation and Protection)*

**PCR5 Erosion and Sediment Control During Demolition**

Erosion and sedimentation controls shall be in place **prior to the commencement of demolition works** and shall be maintained throughout the demolition of the building and any regrading of the ground levels, approved removal of vegetation etc. The controls shall be installed in accordance with the details approved by Council and/or as directed by Council officers. These requirements shall be in accordance with Managing Urban Stormwater - soils and Construction produced by Landcom (Blue Book). A copy of the Erosion and Sediment Control Plan must be kept on site during the demolition works and made available to Council officers on request.

*(Reason: Environmental protection)*

**Conditions which must be satisfied prior to the issue of a Construction Certificate****NSW Transport - Roads & Maritime Services (RMS)**

The following requirements must be complied with:

- All the vehicular access, including construction vehicle access, to the subject site shall be via Formosa Street. No vehicular access is permitted from Victoria Road to the site.
- Any redundant driveway on Victoria Road shall be removed and replaced with kerb and gutter to match existing.

The design and construction of the kerb and gutter on Victoria Road shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS' Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 24 96).

Detailed design plans of the proposed gutter and kerb are to be submitted to RMS for approval prior to the commencement of any road works.

A plans checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.

- "No Stopping" restrictions shall be installed along the Victoria Road frontage of the subject site.
- The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 - 2004 and AS 2890.2 - for heavy vehicle usage.
- Clear sight lines shall be provided at the property boundary line to ensure adequate visibility between vehicles leaving the car park and pedestrians along the frontage road footpath in accordance with Figure 3.3 of AS 2890.1 - 2004 for light vehicles and AS 2890.2 - 2002 for heavy vehicles.
- The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

- The developer shall be responsible for all public utility/relocation works, necessitated by the approved development and as required by the various public utility authorities and/or their agents.
- All vehicles are to enter and leave the site in a forward direction.
- A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council **prior to the issue of the first Construction Certificate**.
- All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- All works/regulatory signposting associated with the proposed development are to be at no cost to RMS

(Reason: Traffic management and safety)

### **Residential storage**

The applicant is to confirm that the total volume of residential storage space required under *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* has been provided.

This includes:

- 6m<sup>3</sup> for one-bedroom units
- 8m<sup>3</sup> for two-bedroom units
- 10m<sup>3</sup> for three-bedroom units

(Reason: Amenity)

### **Mechanical Turntable**

The approved plans show the provision of a mechanical turntable in the loading dock area.

The following information (at a minimum) regarding the mechanical turntable shall be submitted for Council approval **prior to any Construction Certificate being issued**:

- vi. Manufacturer specifications and instructions for operation;
- vii. Details of manual operation in the event of power/mechanical failure;
- viii. Maintenance schedules;
- ix. The waiting and working times for the turntable;
- x. Safety and training requirements for the use of the turntable;
- xi. Types of vehicles the turntable can accommodate; and
- xii. The turntable is required to have the capacity to accommodate appropriate vehicles for future commercial deliveries and Council's waste collection vehicles to enter, collect and exit the site in a forward direction. This will also require confirmation that vehicles are provided with sufficient head height to the opening. In this regard, the architectural drawings may require alteration to accommodate any required head height for specific vehicles.

(Reason: Traffic, loading/unloading and waste collection management)

### **CCD1 Access for People with Disabilities**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

**CCD2 Disabled Toilets**

Plans and details of the disabled toilet/s complying with the relevant Australian Standards, the Building Code of Australia, and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The plans must be approved by the Accredited Certifier **prior to issue of a Construction Certificate**.

*(Reason: To inform of relevant access requirements for persons with a disability)*

**CCC2 Damage Deposit for Council Infrastructure**

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of **\$50,000.00** shall be paid to Council **prior to the issue of the Construction Certificate**.

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

**Note:** Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop differential settlement and maintain the integrity of council infrastructure and asset.

*(Reason: Protection of Council infrastructure)*

**CCC3 Long Service Levy Payments**

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate**. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

*(Reason: Statutory requirement)*

**CCC8 Section 94A Levy Contributions**

The following Section 94A Levy Contribution is required towards the provision of public amenities and services in accordance with the City of Canada Bay Section 94A Plan 2005.

Pursuant to Section 80A(1) of the *Environmental Planning and Assessment Act 1979*, and the City of Canada Bay Section 94A Levy Contributions Plan 2005, a contribution of 0.5% (for works between \$100,001.00 and \$200,000.00) or 1% (for works over \$200,000.00) of the cost of development amounting to **\$206,735.25** shall be paid to Council **prior to the release of any associated Construction Certificate**.

The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the Canada Bay Section 94A Levy Contributions Plan 2005. The Consumer Price Index All Group Index Number for Sydney at the time of the development application determination is **178.7**.

A copy of the Canada Bay Section 94A Levy Contributions Plan 2005 and accompanying Fact Sheet may be inspected or obtained from the City of Canada Bay Civic Centre, 1A Marlborough Street, Drummoyne during business hours or on Council's web site at [www.canadabay.nsw.gov.au](http://www.canadabay.nsw.gov.au)

*(Reason: To provide high quality and diverse public amenities and services to meet the expectations of the existing and new residents of the City of Canada Bay)*

**CCC10 Fees to be paid to Council prior to issue of the Construction Certificate**

Damage Deposit	<b>\$50,000.00</b>
Sect. 94A Contributions	<b>\$206,735.25</b>
	+ CPI
<b>TOTAL</b>	<b>\$256,735.25</b>
	+ CPI where applicable

**PLEASE NOTE that other fees and charges may be applicable to the proposal.**

The applicant is advised to obtain a copy of Council's latest Fees and Charges schedule available at Council's Customer Services Section. Further information as to other fees and charges applicable to your development may be obtained by contacting Council's Customer Services Centre on 9911 6555 during office hours.

*(Reason: Statutory requirement and information)*

**CCG1 Amendments to Approved Plans**

The following amendments shall be made to the approved plans prior to the issue of a Construction Certificate:-

*Vehicular Access and Parking*

- a) Amend plans as necessary to comply with relevant conditions of this consent.

*Landscape/Privacy planter boxes*

- b) Solid masonry planter boxes are to be designed and incorporated to unit no's 1.15, 2.09, 2.15, 4.09 and 4.10, to form the entire length of the balustrade. The planter boxes must be incorporated in the required landscape plan and designed with an efficient irrigation and drainage system and sustain planting. The planter boxes must have a minimum depth of 600mm.

*Privacy balustrades*

- c) The balustrades to the south-western terraces of units no's 3.09, 3.14, 5.06 and 5.07 shall be fitted with obscured glazing.

*Setback of external wall on fifth floor*

- d) The south-west facing external wall of unit no's 5.02 and 5.03 shall be setback an additional 900mm minimum from the setback depicted on the architectural plan.

**Note:** This involves a change to the Development Application plans as submitted to and approved by Council. Any changes in this regard shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of the first Construction Certificate** for the proposed development.

*(Reason: To confirm and clarify the terms of Council's approval)*

**CCG2 Construction Management Plan**

**Prior to the issue of the first Construction Certificate**, submit to the Accredited Certifier a Construction Management Plan that clearly sets out the following:

- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like. Note: There must be no vehicles entering or exiting the site from Victoria Road at any stage of the development.
- (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.



- (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer.
- (f) A Soil and Water Management Plan detailing all sedimentation controls.

*(Reason: Safety, amenity and protection of public infrastructure and the environment)*

#### **CCG3 Continuous Awnings**

The awning over the footpath, as indicated on the approved drawings, shall not encroach within 600mm from the face of the kerb. The height of the completed awning shall not vary from within the range of 3 metres to 4.5 metres above the completed footpath. The awning shall be detachable from the building without causing any concealed structural failure. Provision for awning cut-outs shall be made for existing and/or new trees. Details in this regard must be indicated on the architectural plans **to be submitted with the Construction Certificate**.

*(Reason: Pedestrian amenity)*

#### **CCG4 Obtaining a Construction Certificate for Building Work**

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

*(Reason: Information)*

#### **CCL2 Landscape Maintenance Strategy**

To ensure the survival of landscaping following works, a landscape maintenance strategy for the owner/occupier to administer over a 12 month establishment period following the issue of the Occupation Certificate shall be prepared and provided to the satisfaction of the Accredited Certifier **with the Construction Certificate application**. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

*(Reason: Ensure landscape survival)*

#### **CCL3 Landscape Plan**

A landscape plan prepared by a qualified landscape architect or landscape consultant to a scale of 1:100 or 1:200, conforming to all relevant conditions of consent is to be submitted to the satisfaction of the Accredited Certifier **prior to the issue of a Construction Certificate**.

The plan must include the following information:

- location of all existing and proposed landscape features including materials to be used;
- delineate and identify all trees to be retained, removed or transplanted;
- existing and proposed finished ground levels;
- top and bottom wall levels for both existing and proposed retaining and free standing walls;

- detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity;
- Incorporate massed planted beds within the communal open space area; and
- Incorporate a minimum of five (5) canopy trees capable of surviving and reaching an affective height.

Consideration within the design should be given to the scale of planting in proportion to the proposed development, consistency with the existing landscape character of the area, potential views, solar access and privacy for neighbouring development.

*(Reason: Landscape quality)*

#### **CCL4 On Slab Landscaping**

To ensure the site landscaping thrives the on slab landscaping shown on the approved landscaping plan is to be designed to include a minimum soil depth of 650mm for shrubs and trees and 300mm for grass and ground covers, adequate drainage and a permanent, automatic irrigation system conforming to Sydney Water's current *Waterwise* Policy. Details shall be submitted to the satisfaction of the Accredited Certifier **prior to the issue of a Construction Certificate**.

*(Reason: Ensure landscape survival)*

#### **CCV1 Available Visitor Car Parking Signage**

A sign shall be erected in a suitable location on the property near the driveway entrance indicating where visitor parking is available on the site. Details shall be submitted **prior to the issue of the first Construction Certificate**.

*(Reason: Adequate access and egress)*

#### **CCV2 Bicycle Storage Provision**

Provision for bicycles shall be in accordance with the City of Canada Bay Development Control Plan 2008 for Bicycle Parking and Storage Facilities. Details shall be submitted **prior to the issue of the first Construction Certificate**.

*(Reason: Convenience)*

#### **CCV3 Car Parking Areas for Multiple Use Buildings**

The following car parking and service vehicle requirements apply:-

- 156 car spaces shall be provided on the development site. This shall comprise of:-  
89 residential spaces;  
30 visitor spaces;  
34 business/commercial/retail premises spaces (plus 3 surplus spaces);  
Car parking spaces for people with mobility impairment, in accordance with AS 2890.1.
- All car spaces shall be allocated and marked according to this requirement.
- If the development is to be strata subdivided, the car park layout shall reflect the above allocation.
- Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- The parking bays shall be delineated by line marking.

The following traffic control measures shall be implemented on site:-

- Signage indicating "Entry Only" shall be prominently displayed at the entrance to the development.
- Signage indicating "Exit Only" shall be prominently displayed at the exit to the development.
- One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area.

The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the first Construction Certificate**.

*(Reason: Parking and access)*

#### **CCV4 Disabled Car Parking Spaces**

Eleven (11) (or a number otherwise required in accordance with the Building Code of Australia) of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons. These spaces shall be a minimum of 3.2m wide x 5.5m long and located near pedestrian access routes designed for disabled persons. Each space shall be clearly marked as such.

Car parking for people with disabilities shall be provided in accordance with the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of the first Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

*(Reason: To inform of relevant access requirements for persons with a disability)*

#### **CCV6 Maintaining Sight Lines (multi- unit development)**

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Accredited Certifier **prior to the issue of the first Construction Certificate** showing compliance with this condition.

*(Reason: Safety)*

#### **CCV7 Off Street Parking Provision - General**

156 off-street car parking spaces suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided. Each space shall have minimum dimensions in accordance with the relevant Australian Standard.

Details are to be submitted to the Accredited Certifier **prior to the issue of the first Construction Certificate** showing compliance with this condition.

*(Reason: Parking and access)*

#### **CCV8 Off Street Car Parking Space Provision**

Car parking spaces shall be provided in accordance with the approved plans for the parking of resident and visitor vehicles on the site. In this regard, no less than 119 spaces are required and designated as follows:

- (a) Minimum of one space per unit.
- (b) 30 spaces for visitors.

- All car spaces shall be allocated and marked accordingly. If the development is to be strata subdivided, the car park layout must respect the above allocation and thereafter regarded as part of the entitlement of that unit.
- Each space shall have minimum dimensions in accordance with the relevant Australian Standard.
- Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- Visitor spaces shall only to be used by persons visiting residents of the property or persons with legitimate legal reason to be upon the land.
- Access to visitor parking shall not be restricted without development approval.

- A sign shall be erected at the vehicular entrance indicating the availability of visitor parking. Such spaces shall be clearly marked.

Details are to be submitted to the Accredited Certifier **prior to the issue of the first Construction Certificate** showing compliance with this condition.

*(Reason: Parking and access)*

#### **CCV9 Ramp Width Requirements (multi unit development)**

The internal driveway must be a minimum 5.50m wide (clear width) for the first 6 metres inside the property so as to allow entering & exiting vehicles to pass within the site. Should the driveway narrow after this point it is then to be designed with a minimum 1.5m x 1.5m splay to allow the passing to work. The building plans shall indicate compliance with this requirement **prior to the issue of the first construction certificate**.

*(Reason: Safety and traffic management)*

#### **CCV10 Speed Hump and Stop Sign on Exit**

The applicant shall install a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement **prior to the issue of the first construction certificate**.

*(Reason: Traffic safety and management)*

#### **CCV11 Stacked Parking**

Any stacked parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking). Details in this regard must be reflected in the plan documentation to be **lodged with a Construction Certificate** application. Manoeuvring of stacked vehicles must occur wholly within the property.

*(Reason: Compliance and appropriate allocation of parking)*

#### **CCV12 Stop Signs**

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to stop before proceeding onto any public way.

*(Reason: Adequate access and egress)*

#### **CCV13 Vehicular Access Ramps**

Vehicular access ramps shall comply with the provisions of AS/NZS 2890.1:2004. Plans to be submitted shall contain the following details:

- (i) Longitudinal section along the extreme wheel paths of each driveway/access ramp at a scale of 1:25 demonstrating compliance with the scraping provisions of AS/NZS 2890.1:2004. It shall include all levels and grades, including those levels stipulated as boundary levels, both existing and proposed. It shall extend from the centre-line of the roadway through to the parking area.
- (ii) Sections showing the clearance to the underside of any overhead structure (minimum headroom requirements 2200mm minimum for standard headroom clearance or 2400mm where disabled access provisions are to be provided) demonstrating compliance with the provisions of AS/NZS 2890.1:2004.

- (iii) Longitudinal section along the gutter line showing how it is intended to transition the vehicular crossing into the existing kerb and gutter. Boundary levels shall generally run parallel with the kerb levels.
- (iv) Location of verge trees, street furniture and service installations.
- (v) Superimposition of vehicle turning circles for access into parking spaces.
- (vi) Certification that the design complies with AS/NZS 2890.1:2004 by a Qualified Engineer.

The certification referred to in (vi) above shall be submitted to the Accredited Certifier **prior to the issue of the first Construction Certificate (for the design) and to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the 'as-built works'**.

*(Reason: To ensure adequate vehicular access can be achieved)*

#### **CCV14 Vehicular Circulation, Aisles & Ramps**

The aisle widths, internal circulation, ramp widths and grades of the car park shall comply with the Roads and Traffic Authority Guidelines and AS/NZS 2890.1:2004 – Off-Street Car Parking Code.

*(Reason: Parking and access)*

#### **CCP3 Privacy - Obscure Glass**

All windows to bathrooms or ensuites shall consist of obscure glass. The changes in this regard shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of the first Construction Certificate** for the proposed development.

*(Reason: Amenity)*

#### **CCA1 Damage Report**

**Prior to the issue of the first Construction Certificate**, a Damage Report Form shall be completed and submitted to Council. This Damage Report Form is for the evaluation of the existing condition of the road reserve, which must be filled out and signed by the Applicant and approved by Council.

This Form will be used to assist Council in determining the refund of any damage deposits and any likely repairs necessary. If an approved Damage Report Form is not provided, Council at its discretion shall carry out an independent evaluation of the condition of the road reserve and any damages found will be rectified at the Applicant's cost.

When lodging the Damage Report Form, fees are payable in accordance with Council's fees and charges schedule, which will go towards administration and inspection costs.

The cost of repairing any damage to Council property (including the footpath, verge, street trees, kerb, gutter, road pavement or the like) during and/or immediately after construction must be paid to Council or shall be deducted from the damage deposit bond. Repair of damaged Council property by the Applicant or his agent is not permitted unless approved by Council.

For roadways requiring asphaltic concrete works or adjustment works, these shall be done to a minimum width as specified by Council. Minimum dimensions are given in Council's Specification for Driveway Construction or Specification for Restoration Works.

*(Reason: Maintain public assets)*

#### **CCA2 Footpath Design Levels**

Where requested, detailed footpath levels shall be obtained from Council's Manager Roads and Drainage Assets **before finalisation of the design for Construction Certificate**

**Application.** Any required adjustments shall be included in the plans and the interface across the street boundaries shall be designed to incorporate smoothly the designated levels.

Unless an alternative specific design is submitted and approved by Council, the footpath levels adjoining the site shall generally be as follows:

- (a) The internal driveway levels shall be designed to meet Council's footpath verge levels such that a fall of 4% is obtained from the boundary line to the line formed by the edge of Council's footpath which is closer to the kerb and gutter.
- (b) The level of the boundary line as it crosses the driveway shall incorporate a cross fall equivalent to the general longitudinal grade of the street. Any required adjustments shall be included in the plans and submitted for approval (under Section 138 of the Roads Act) **prior to the release of the Construction Certificate**. Care should be taken in steep landforms to ensure scraping of vehicles is avoided.

*(Reason: Public Infrastructure)*

### **CCA3 Protection of Public Places**

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

*(Reason: Safety)*

### **CCA5 Vehicular Crossings**

Full-width, heavy-duty concrete vehicular crossing(s) shall be provided across the footpath at the entrance(s) and/or exit(s) to the site, subject to approval by Council's Engineer. In this regard the Applicant must obtain a copy of Council's "Specification for Driveway Construction" and lodge an application for vehicular crossing(s) (available from Council's Customer Services Centre or downloaded from Council's internet website), and pay the appropriate fees and charges **prior to the lodgement of the Construction Certificate**.

*(Reason: To ensure appropriate access to the site can be achieved)*

### **CCI1 Hoardings**

A Hoarding Application for the erection of a class A (fence type) or class B (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained.

The relevant application form shall be submitted to Council with a footpath occupancy fee based on the area of footpath to be occupied according to Council's Schedule of Fees and Charges, and the application shall be approved **before the commencement of work**.

A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy also provided to Council. The Policy is to note Council as an interested party. The copy is to be provided to Council **prior to the issue of the first Construction Certificate**.

*(Reason: Safety & information)*

### **CCI2 Redundant Vehicular Crossings and Ancillary Works**

**Where new pavement, repair or reinstatement of footpath or other ancillary works such as kerb and gutter and stormwater pit construction is proposed, the Applicant shall submit to Council an application for "Driveway and ancillary works" (available from Council's Customer Services Centre) and pay the appropriate fees & charges prior to the issue of a Construction Certificate.**

All disused or redundant vehicle crossings and laybacks shall be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council and the footpath area is to be restored to the satisfaction of Council's Engineer, prior to the issue of the Occupation Certificate.

*(Reason: Public infrastructure maintenance)*

### **CCI3 Road Opening Permit**

**Pursuant to Section 138 of the Roads Act, should any work on the verge, footpath, public road reserve or public reserve (open space) be required a "Road Opening Permit" will need to be obtained from Council.** In this regard the Applicant is to make a formal application at Council's Customer Services Centre. The Permit Application is to be submitted to and approved by Council **prior to the issue of the first Construction Certificate.**

Note: Road Opening Permits do not include driveway and layback construction.

*(Reason: Maintain public asset)*

### **CCI5 Notice of Requirements from Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. For details refer to Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au).

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.

The Notice of Requirements must be submitted to the Accredited Certifier **before the issue of the first Construction Certificate.**

*(Reason: To comply with statutory requirements)*

### **CCR1 Application for a Construction Certificate**

The applicant must apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and specifications complying with the Building Code of Australia (BCA), relevant Australian Standards, and the development consent and conditions.
- (b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a practising consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

**Note:** The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.

- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428 parts 1 - 4 inclusive.
- (f) If an alternative solution to the “deemed to satisfy” provisions of BCA is proposed, the following details must be lodged:
  - Performance requirements that the alternative solution intends to meet.
  - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
  - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

**Note:** The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any fees relating to any review are required to be paid **prior to the issue of the first Construction Certificate.**

*(Reason: Statutory requirement)*

#### **CCR2 BASIX Commitments**

BASIX Certificate **No. 388177M** shall be submitted to the Accredited Certifier with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Accredited Certifier and Council. If any proposed change in the BASIX commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 96 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate **prior to the issue of any Construction Certificate.**

*(Reason: Statutory Compliance)*

#### **CCR4 Energy Australia Requirements**

The approved development must comply with the requirements of Energy Australia. **Prior to the issue of any Construction Certificate**, the applicant shall demonstrate to the Accredited Certifier that any such requirements have been complied with.

*(Reason: Statutory requirement)*

#### **CCM4 Erosion and sedimentation controls**

Erosion and sedimentation controls must be provided to ensure:

- (a) compliance with the approved Soil and Water Management Plan
- (b) removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) all uncontaminated run-off is diverted around cleared or disturbed areas
- (d) silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
- (e) all erosion and sediment controls are fully maintained for the duration of demolition/development works



- (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
- (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) all water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
- (i) pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site

*(Reason: Environmental protection)*

#### **CCM5 Grated Drain to Garage**

A grated trench drain shall be provided across the (garage entrance/driveway/street boundary). Unless otherwise sized by a Hydraulic Engineer, the dimensions of the trench grate shall be no less than 300mm wide by 100mm deep at the shallow end, and have a "bottom" slope of 2 %. This trench drain shall be connected to an approved drainage system.

In the event of the Hydraulic Designer sizing the grated drain, the calculation shall be in accordance with AS/NZS3500.

The above information must be indicated on all relevant drawings **to be submitted with the Construction Certificate**.

*(Reason: Environmental protection)*

#### **CCM6 Rainwater Re-use**

A rainwater re-use system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Policy and/or "Specification of the Management of Stormwater", whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted and approved by Council or an Accredited Certifier **prior to the issue of the Construction Certificate**.

*(Reason: Compliance and Amenity)*

#### **CCM7 Silt Arrestors and Gross Pollutant Traps**

Silt and gross pollutant traps shall be fitted in all new stormwater pits, designed in accordance with Council's "Specification for the Management of Stormwater" and to the satisfaction of Council or an Accredited Certifier. Details are to be submitted with the design **prior to the issue of the Construction Certificate**.

*(Reason: Environmental)*

#### **CCS1 Dilapidation Report**

Subject to access being granted, a Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out **prior to the issue of any Construction Certificate**.

The Dilapidation Report is to be prepared by a suitably Qualified Engineer with current Corporate Membership with the Institution of Engineers, Australia or Geotechnical Practitioner.

The Report shall cover structural and geotechnical factors likely to arise from the development.

A copy of this Report shall be submitted to Council as a record.

The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

*(Reason: Safety)*

#### **CCS2 Geo-technical Report**

A comprehensive geo-technical engineering report assessing the impact and safety of the proposed works shall be prepared by a suitably experienced and qualified geo-practitioner and **submitted with any Construction Certificate**. The report must include the results of subsurface investigations involving either test pits to rock, or preferably the drilling of cored boreholes (to 1m below the proposed final excavation level). The report shall describe inter alia:-

- (a) an indication of the nature and depth of any uncontrolled fill at the site;
- (b) an indication of the nature and condition of the material to be excavated;
- (c) indications of groundwater or seepages;
- (d) required temporary measures for support of any excavations deeper than 1m adjacent to property boundaries;
- (e) statement of required excavation methods in rock and measures required to restrict ground vibrations;
- (f) other geo-technical information or issues considered relevant to design and construction monitoring.

*(Reason: Structural safety)*

#### **CCS4 Support and Protection for Neighbouring Buildings**

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of clause 98E of the Environmental Planning and Assessment Regulation 2000, including:

- (1) (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.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details shall be submitted to the Accredited Certifier **prior to the issue of any Construction Certificate**.

*(Reason: Structural safety)*

#### **CCU1 Electricity Connection**

Provision must be made for connection to future underground distributions mains. This must be achieved by installing:

- An underground service line to a suitable existing street pole; or
- Sheathed underground consumers mains to a customer pole erected near the front property boundary (within 1 metre)

**Note:** A limit of one (1) pole per site will apply.

Details are to be submitted **with the application for a Construction Certificate**.

*(Reason: Environmental Amenity)*

#### **CCU2 Electricity Substation**

Any required electricity substation must be located within the boundaries of the site.

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier **prior to the issue of any Construction Certificate** detailing the energy authority's requirements.

**Note:** Where an electricity substation is required but no provision has been made to place it within the approved building or its site and no details are provided on the approved development consent plans, a section 96 application is required to be submitted to Council for approval of an appropriate location for the required electricity substation.

*(Reason: Access to utility)*

#### **CCU4 Telecommunications**

Provision must be made for relocation of telecommunications network assets including underground placement of any existing aerial cables and infrastructure. Any costs associated with the relocation of the above are at the requestor's expense.

Should you need to discuss access to or relocation of any Telstra assets please contact Telstra's Network Integrity team on 1800 810 443 (opt1) or email F1102490@team.telstra.com.

Details are to be submitted **with the application for a Construction Certificate**.

*(Reason: Environmental Amenity)*

#### **Conditions which must be satisfied prior to the commencement of any development work**

##### **PDR1 Appointment of Principal Certifying Authority**

No work shall commence in connection with this Development Consent until:

- (a) a construction certificate for the building work has been issued by:
  - (i) the consent authority; or
  - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the Council of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - (ii) notified the principal certifying authority of such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

*(Reason: Statutory requirements)*

#### **PDR2 Construction Certificate**

No work shall commence until you:

- (a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Accredited Certifier - a fee applies for this service; and
- (b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service

*(Reason: Statutory Requirement)*

#### **PDR5 Notice of commencement**

No work shall commence until you submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

- (a) Not less than two (2) days notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifying Authority (either Canada Bay Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

*(Reason: Statutory Requirement)*

#### **PDR6 Site Safety Fencing**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the construction works. The fencing **must be erected before the commencement of any work and maintained.**

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition and construction works.

##### *Hoardings*

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

*(Reasons: Statutory Requirement and health and safety)*

**PDR7 Principal Certifying Authority (PCA) Sign**

**Prior to commencement of any work**, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

*(Reason: Statutory Requirement)*

**PDR9 Toilet Amenities on Construction Site**

**Prior to commencement of any building works**, toilet facilities for employees must be provided in accordance with WorkCover NSW requirements.

Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet or sewer connected toilet closet.

*(Reason: Statutory Requirement - Health and amenity)*

**PDM1 Erosion & Sediment Control: Minor works – Prior to construction**

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

*(Reason: Environmental protection)*

**PDM2 Soil & Water Management during Construction**

Landcom's "Managing Urban Stormwater – Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Accredited Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

*(Reason: Environmental protection)*

**Conditions which must be satisfied during any development work****DWT1 Burning and Burying of Waste**

**No** materials or rubbish resulting from the land clearing, demolition and building works must be burnt or buried on the site.

*(Reason: Health and amenity)*

**DWT2 Construction Hours**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery. Such equipment may only be used between the hours of 7.00 am – 5.00 pm Monday to Friday only.

*(Reason: Safety and amenity)*

**DWT3 Disruption of Traffic**

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

*(Reason: Safety and information)*

**DWT4 Dust Control*****Small Works***

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

***Major Works***

The following measures must be taken to control the emission of dust:

- a. Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b. All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- c. All stockpiles of materials that are likely to generate dust must be kept damp or covered.

*(Reason: Environmental amenity)*

**DWT5 Excavation – Water**

All excavations must be kept free from the accumulation of water.

*(Reason: Health and safety)*

**DWT6 Prevention of Nuisance**

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind blown dust, debris, noise and the like during the demolition, excavation and building works.

*(Reason: Health and amenity)*

**DWG2 Acid Sulphate Soils**

Any excavation works carried out on site should be closely monitored to ensure no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site is to be stopped immediately, Council is to be notified and a suitably qualified environmental scientist should be contracted to further assess the site.

*(Reason: Environmental protection)*

**DWG3 Construction Management Plan**

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

*(Reason: Compliance with condition of consent)*

**DWG4 Damage to Adjoining Properties**

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

*(Reason: Structural safety)*

**DWG5 Stamped Plans**

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

*(Reason: To ensure compliance with approved plans)*

**DWG6 Site requirements during demolition and construction**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.

- (l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc) should be kept on site as evidence of approved methods of disposal and recycling.
- (m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council including payment of relevant fees.
- (o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- (p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

*(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)*

#### **DWC3 Remediation Action Plan (RAP)**

Prior to the commencement of any works, a Remediation Action Plan (RAP) shall be prepared and submitted to Council in accordance with the Managing Contaminated Land Planning Guidelines under State Environmental Planning Policy No. 55 - Remediation of Land and the Contaminated Land Management Act 1997. The RAP shall be reviewed by a Site Auditor, accredited by the DECC under the Contaminated Land Management Act 1997, and written confirmation provided by the Site Auditor to Council that the RAP, if followed, is adequate when implemented to render the site suitable for its proposed use.

The following matters must be included as part of the Remediation Action Plan:

- Hours of Remediation Work
- Soil and Water Management Measures including stockpiles, site access, excavation pump-outs, landscaping/rehabilitation and bunding.
- Noise and Vibration
- Air quality and dust and odour control.
- Groundwater
- Transport (management plan)
- Hazardous materials - removal and disposal
- Disposal of Contaminated Soil
- Containment/Capping of Contaminated Soil
- Importation of Fill
- Site Signage and Contact Numbers
- Site Security
- Occupational Health and Safety
- Removal of Underground Storage Tanks (where relevant)

*(Reason: Compliance and Site Works Management)*

#### **DWC4 Site Audit Statement**

Prior to the issue of any Occupation Certificate, the applicant shall submit to Council a Site Audit Statement and Summary Site Audit Report from a Site Auditor, accredited by the NSW EPA under the Contaminated Land Management Act, 1997, certifying that the site is suitable for the proposed development.

*(Reason: Compliance with Statutory Requirements)*

#### **DWC5 Validation Report**



A Full Validation Report is to be submitted to Council including investigations into groundwater **prior to the issue of a Construction Certificate** in accordance with the Guidelines for Consultants Reporting on Contaminated Sites (NSW Environment Protection Authority reprinted 2000 - available from the Department of Environment and Climate Change website [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))

*(Reason: Compliance with Statutory Requirements)*

#### **DWN1 Noise - Construction**

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997 and the DECC Noise Control Guideline – Construction Site Noise and AS 2436-1981 – “Guide to Noise Control on Construction, Maintenance and Demolition Sites” for the control of construction noise which specifies that:

Construction period of 4 weeks and under – The  $L_{10}$  level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks – The  $L_{10}$  level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A).

Silencing – All possible steps should be taken to silence construction site equipment.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the identified noise source/s to ensure compliance with Councils requirements on noise. An acoustic assessment & report will be required to ensure that the intrusive noise from the plant does not exceed 5 dB (A) above the background noise.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the premises to ensure compliance with the NSW DEC Industrial Noise Policy. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

*(Reason: Noise Attenuation)*

#### **DWN2 Noise - Plant**

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site.

*(Reason: Safety and Amenity)*

#### **DWN3 Noise & Vibration**

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by City of Canada Bay Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

*(Reason: Noise attenuation)*

**DWA1 Obstruction of Road or Footpath**

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

*(Reason: Protection of infrastructure, safety & information)*

**DWA2 Protection of Public Places**

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

*(Reason: Safety)*

**DWA3 Protection of Footpath**

The footpath must be protected against damage by means of close boarding with chamfered ends.

*(Reason: Protection of infrastructure and the environment)*

**DWR1 Compliance with Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia. **Note:** Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and Assessment Regulation 2000*, must comply with the Building Code of Australia in all other respects.

*(Reason: Prescribed statutory control)*

**DWR2 Critical Stage Inspections - General**

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 109E(3)(d) of the Act or as required by the PCA and any PCA Service Agreement.

**Note 1:** The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

**Note 2:** The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

*(Reason: Statutory requirement)*

**DWR4 Inspections for Building Work - Critical Stages (Classes 2,3 or 4)**

Where applicable inspections of the development site may be required to be undertaken at the following stages:

- (a) Prior to covering of waterproofing in any wet areas, for a minimum of 10 % of rooms with wet areas within a building;
- (b) Prior to covering any stormwater drainage connections;

- (c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- (d) Other.

**If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.**

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (d), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (d) may only be carried out by the PCA.

For each inspection the principal contractor (*or owner-builder*) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

*(Reason: Statutory Requirements)*

#### **DWR5 Critical Stage Inspections for Building Work (Classes 5, 6, 7, 8 or 9)**

Where applicable inspections of the development site may be required to be undertaken at the following stages:

- (a) Prior to covering any stormwater drainage connections; and
- (b) After the building work has been completed and prior to any occupation certificate being issued in relation to the building;
- (c) Other.

**If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.**

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (c), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (c) may only be carried out by the PCA.

For each inspection the principal contractor (*or owner-builder*) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

*(Reason: Statutory Requirements)*

#### **DWR6 Inspection Records & Compliance Certificates**

The PCA or accredited certifier undertaking each of the inspections must make a **record of each inspection** in accordance with Clause 162B of the Environmental Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any **compliance certificates** issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued.

A compliance certificate must be issued where:

- (a) Either:
  - (i) Council is appointed the PCA; or
  - (ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and

- (b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

*(Reason: Statutory Requirement)*

#### **DWS1 Progress Survey – Major Development (greater than two stories)**

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

- (a) At the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- (b) Prior to placement of concrete, the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- (c) Prior to placement of concrete at each second floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- (d) Prior to roofing, or completion of the highest point of the building, showing the anticipated level of the completed work and the relationship to the boundary; and
- (e) At completion, works showing the relationship of the building to the boundary.

Progress certificates in response to points (a) through to (e) shall be produced to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

*(Reason: To ensure compliance with approved plans)*

#### **Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part**

##### **OCG1 Certification of Engineering Works**

**Prior to occupation**, the following documents must be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A "Work - As - Executed" plan of the engineering and/or drainage works.

The abovementioned Certificate is to certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies with appropriate SAA Codes relevant Standards and Council's Policies and Specifications.

For major works, such as subdivisions, works within the road reserve (requiring separate S138 approval) and as where specified by Council, a Part 4A Certificate will be required. It is strongly recommended that the Engineer supervise the works.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**. These documents are to be retained on Council's Construction Certificate file.

*(Reason: Asset management)*

**OCG2 Strata Subdivision Approval**

This approval does not include approval to strata subdivide the subject property. A **separate development application** must be submitted to Council for approval **prior to occupation and/or use of the building/s**.

*(Reason: Information)*

**OCG3 Street Numbering Strategy**

The Principal Certifying Authority must be satisfied that the conditioned Street Numbering Strategy has been carried out on site **prior to the issue of any Occupation Certificate**.

The conditioned Street Numbering Strategy must not be altered in any way without prior consent of Council.

*(Reason: Compliance)*

**OCA1 Civil Works on the Footway**

The Applicant is required to carry out the following works:

- Reconstruct any bays of cracked concrete footpath along the full frontage of the site.
- Reconstruct existing public drainage pit/pipe system
- Provide a new vehicular crossing.
- Remove any redundant vehicular crossings and replace with kerb and gutter to match the adjoining.

The above works must be completed to the written satisfaction of Council **prior to issue of any Occupation Certificate**. Where the Applicant nominates Council to undertake the civil and stormwater works, they must contact Council's Manager, City Construction and Fleet in order to obtain an estimated cost for construction and contract to undertake the works.

*(Reason: Preserve Council asset and amenity)*

**OCR1 Occupation Certificate (section 109M of the Act)**

A person must not commence occupation or use *(or change of use where an existing building)* of the whole or any part of a new building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

**Note:** New building includes an altered portion of, or an extension to, an existing building.

*(Reason: Statutory requirement)*

**Conditions which must be satisfied prior to the issue of a Final Occupation Certificate****FOC1 Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:-

1. Forwarded to City of Canada Bay Council;
2. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
3. Prominently displayed in the building.

*(Reason: Fire safety)*

**FOC2 Certificate of Test of Mechanical Ventilation**

On the satisfactory completion of work and **prior to the issue of an Occupation Certificate**, a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

*(Reason: To ensure compliance with approved plans)*

**FOG5 Wash down of Brickwork**

**Prior to occupation or use**, the brickwork shall be thoroughly cleaned down on all sides. All necessary precautions shall be taken to ensure that this work does not affect neighbouring properties.

*(Reason: Visual amenity and environmental health)*

**FOL1 Arborist's Report - Follow up**

As part of the on-going assessment of the tree/s to be retained, the consulting arborist engaged by the applicant is to assess their health and any impacts suffered by them as a result of the proposed approved development. Findings are to be compiled in a detailed report to be provided to the satisfaction of the Principle Certifying Authority at the completion of construction and **prior to issue of the Final Occupation Certificate** which documents the following:

- methods of excavation or construction used to carry out the works;
- any damage sustained by the tree/s as a result of the works;
- any subsequent remedial works required to be carried out by the consulting arborist as a result of the damage and
- any future or on-going remedial work required to be carried out to ensure the long term retention of the tree/s

*(Reason: Ensure survival of trees to be retained)*

**FOM1 Certification of the Constructed Stormwater Drainage System**

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to issue of the Final Occupation Certificate**.

*(Reason: Adequate stormwater management)*

**FOM2 Covenant & Restriction as to User for Stormwater Controlled Systems**

**Prior to occupation and the issuing of an Occupation Certificate**, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, etc).

**Easement Registration**

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement not less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.

The wording on the 88B Instrument is to make reference to the Council file where the Construction plans and the "Work-as-Executed", (as built), plans are held. Typical wording can be obtained from Council's "Specification for the Management of Stormwater" document.

*(Reason: Compliance and adequate maintenance of drainage system)*

**FOS1 Subdivision - Evidence of Consolidation**

The existing allotments shall be consolidated into a single lot. Evidence that the plan of consolidation has been registered as a deposited plan by the Land and Property Information Office must be submitted to Council **prior to occupation of the site**.

(Reason: Information)

### **Conditions which must be satisfied during the ongoing use of the development**

#### **OUE1 Annual Fire Safety Statement**

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall furnish Council with an Annual Fire Safety Statement from a competent person so as to certify the essential fire safety measures in the building. The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:-

1. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
2. Prominently displayed in the building.

(Reason: Fire safety)

#### **OUH12 Acoustic Assessment**

All recommendations contained in the acoustic assessment report prepared by (*Acoustic Logic Pty Ltd, dated 22 July 2011*) shall be adopted, implemented, and adhered to. Any changes made to the proposal that would alter the acoustic assessment will require a further acoustic assessment and a copy of this further report shall be provided to Council prior to the commencement of works on the site or the commencement of the use.

(Reason: Noise Control and Amenity)

#### **OUH13 Further Acoustic Assessment**

Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, incorrectly implemented or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the person/s entitled to act on the development consent shall employ the services of a qualified acoustic consultant to undertake an assessment of the development and will undertake all work required by the consultant, implement any recommendation made by the consultant and adhere to any further direction given by Council in relation to noise abatement.

(Reason: Noise Control and Amenity)

#### **OUH15 Noise (General)**

The use of the premises shall comply with all applicable noise legislation and not give rise to the transmission of unacceptable or offensive vibration or noise to any place of different occupancy in accordance with the NSW DECC's *Industrial Noise Policy 2000* as well as *The Protection of the Environment Operations Act 1997 (NSW)*.

(Reason: Noise Control and Amenity)

#### **OUH16 Noise Complaints - General**

The development must not cause a noise nuisance to any other person. Following occupation, should complaints of a noise nuisance be justified, an acoustic assessment shall be conducted by a qualified consultant and report provided to Council. The applicant shall then implement all recommendations provided under the assessment within a timeframe set by Council, to the satisfaction of Council and comply with any additional direction given by Council.

(Reason: Noise Control and Amenity)

#### **OUH19 Compliance with Noise Control Legislation**

The applicant shall ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations; the NSW Environment Protection Authority Industrial Noise Policy (2000) and relevant Australian Standards on Noise Control on Construction, Maintenance and Demolition Sites.

(Reason: Noise Control and Amenity)

#### **OUG4 Australia Post Guidelines**

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at [www.auspost.com.au](http://www.auspost.com.au). A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

#### **Advisory Notes (ANN) -**

Please note: the following may not apply to all consents

#### **ANN1 Dial Before You Dig**

The *principal contractor, owner builder or any person* who needs to excavate and undertake building work must first contact *Dial Before You Dig* and allow a reasonable period of time for the utilities to provide locations of their underground assets. Failure to do so may result in you being held financially responsible by the asset owner should damage occur to underground pipe or cable networks.

*Dial Before You Dig* is a free national service that provides advice on the location of underground pipes and cables.



When you contact *Dial Before You Dig*, you will be sent details of all *Dial Before You Dig* members who have underground assets in the vicinity of your proposed excavation.

#### **ANN2 Dividing Fences**

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of or payment for the erection of dividing fences.

If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre or if legal advice or action is required, you may contact the Chamber Magistrate.

#### **ANN5 Lapsing of Consent**

In accordance with Section 95 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has substantially physically commenced. **The building must be completed, in accordance with the approved plans and specifications, within five (5) years from the date when the building was substantially physically commenced.**

#### **ANN7 Process for Modification**

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 96 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.



**ANN8 Review of Determination**

In accordance with the provisions of Section 82A of the Environmental Planning and Assessment Act 1979(as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.

**ANN9 Right of Appeal**

Section 97 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

**ANN10 Signage Approval**

A **separate development application** for any proposed signs which are either externally fitted or applied must be submitted for the approval of Council, prior to the erection or display of any such signs. This does not apply to signs which are classified as being 'Exempt Development'.

**ANN11 Skips on Council Footpath**

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder's waste container be required to be left on Council's footpath, nature strip or roadway for the removal of any builder's waste etc. These fees must be paid prior to the container's placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

**ANN12 WorkCover Requirements**

The Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Further information can be obtained from WorkCover NSW's website at <http://workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: WorkCover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.