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## JOINT REGIONAL PLANNING PANEL

FEBRUARY 2013

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<b>Development Application No.</b>	➤ D/2012/429
<b>Address</b>	➤ 118-124 Terry Street, ROZELLE NSW 2039 comprising Lot 3 in DP119 Section D, Lot 2 in DP 234045 and Lot 1 in DP540118.
<b>Description of Development</b>	➤ Demolition of all existing buildings, remediation of the site, construction of a mixed use development comprising 202 apartments, 1270sqm of retail/commercial space, 411sqm of light industrial space operating as live/work units, 250 car spaces and subdivision. A new road will be constructed within the site and dedicated to Council. The proposal also entails construction of a temporary sales office with display units and signage.
<b>Date of Receipt</b>	➤ 7 September 2012
<b>Value of Works</b>	➤ \$80,000,000
<b>Applicant's Details</b>	➤ ANKA Constructions Pty Ltd Andrew Boyarsky C/- ANKA Property Group PO BOX 727 EDGECLIFF NSW 2027
<b>Owner's Details</b>	➤ ANKA Constructions Pty Ltd Level 3, 179 -191 New South Head Rd EDGECLIFF NSW 2027
<b>Notification Dates</b>	➤ 28th September 2012 to 29th October 2012
<b>Number of Submissions</b>	➤ 19
<b>Integrated Development</b>	➤ No

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<b>Main Issues</b>	➤ Traffic, parking, interface with public domain, streetscape, pedestrian safety, stormwater management, amenity of neighbouring properties.
<b>Recommendation</b>	➤ Deferred Commencement Consent

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## 1. PROPOSAL

This application seeks consent for:

- Demolition of all existing buildings and improvements on the site;
- Remediation of the site in accordance with the provisions of State Environmental Planning Policy 55 for Category 2 remediation;
- Construction of a mixed use development in three main buildings ranging in height from three to six storeys and comprising 202 apartments;
- Approximately 1270sqm of retail commercial space;
- Approximately 411 sqm of light industrial space;
- 250 car spaces primarily in three basement car parks;
- Subdivision;
- A new road, to be constructed within the site and dedicated to Council; and
- A temporary sales office with display units and signage

The development consists of three buildings.

The long building facing Terry Street north is known as Building A. It is proposed to be three storeys, and contain 62 apartments and five retail tenancies. It sits above a basement carpark containing 70 car spaces and 26 bicycle spaces, accessed from the northern extremity of the Terry Street frontage of the site.

Building B is proposed to front the new road (called on plan New Road). It is proposed to be wholly residential, and consisting of 76 apartments over four-six storeys, with basement accommodation for 89 cars and 34 bicycles. This basement is accessed solely from New Road.

Between Building A and B there is proposed to be a large central private landscaped garden area for the sole use of the residents of the complex.

Building C faces, in part, New Road, and Terry Street south. It is proposed to be three storeys facing Terry St, wrapping around the corner of "New Road" at four storeys, and then stepping up to six storeys. It contains 64 apartments, four retail tenancies, three live/work light industrial units (facing Crystal Street) and basement parking for 71 residential spaces, 20 commercial spaces, 42 bicycles, and a loading dock, all accessed solely from Terry Street.

There is also proposed a linear communal park along New Road which will be accessible by members of the public, connecting to the retail shops on the south side of New Road.

The proposed unit breakdown is as follows:

- 84 x one-bedroom units
- 102 x two-bedroom units
- 16 x three-bedroom units

In summary, the proposal will consist of three main buildings between three and six storeys in height, 202 units, nine businesses, 250 basement carparking spaces and a new street (to be dedicated to Council) plus communal landscaped space.

## **2. SITE DESCRIPTION**

The site is approximately 14,180sqm in area and has a frontage of 108.46m to Terry Street North, 116.68m to Terry Street South, and 51.08m to Crystal Street. The site shares a boundary with No.126 Terry Street, a three storey mixed use building with residential on the upper floors, a boundary with No.37 Crystal St, an industrial site, a boundary with No.17 Wellington St, consisting of Kennards self-storage, boundaries with No's 1A and 1 to 11A Wellington Street inclusive (mixed business, industrial and residential) and a boundary with 116 Terry Street (business use). The site currently contains a large industrial building formerly occupied by the Carrier airconditioning company and used for manufacture, warehousing and ancillary administration. A large portion of the site is vacant and was used for vehicle parking.

The site is essentially level with the Terry St footpath at the northern end, however at the southern end of Terry Street, and at the frontage to Crystal St the site levels are much higher than the adjacent road reservation, by up to 5m.

Opposite the site the prevailing development is primarily residential consisting of the apartment/townhouse complex known as Balmain Cove occupying 2-36 Waragul Avenue and 35 Terry Street, a business building at 39 Terry Street, and the apartment development known as Balmain Shores at 41-43 Terry Street. Both Balmain Cove and Balmain Shores contain a small number of business tenancies primarily servicing the local area.

Properties along the southern side of Terry Street (being the same side as the development proposal) are almost entirely business/light industrial with a small amount of residential, such as the upper level apartment of 126 Terry Street.

To the south-western side of the site is Crystal Street. This street consists of industrial uses/buildings along its northern edge and remanant residential cottages along its southern side. Crystal St is only accessible from Victoria Road. To the east of the site is Wellington Street, which consists of a mix of remnant dwellings, light industrial, warehousing a self-storage uses on the side abutting the development, and residential and school uses on the other side of the street.

The site, as with all the other sites immediately abutting and contained between Terry St, Wellington St, Crystal St and Victoria Road was, until recently, zoned Industrial under Leichhardt Local Environmental Plan 2000. The subject site has now been rezoned (LLEP amendment 19 gazetted 28 December 2012) to residential with an allowance for a small business component. The remainder of the block remains Industrially zoned.

The site is located within the distinctive neighbourhood of Rozelle Commercial under Leichhardt Local Environmental Plan 2000.

The subject site is not a heritage item nor located within a conservation area.

### **3. HISTORY**

#### **3.1 Rezoning History**

Over the last ten years the site has had a number of owners all of whom have entered into discussions with Council about development opportunities and most appropriate land use/s.

In 2006/07 Council rejected Multiplex's Masterplan for a residential/retail/commercial development. The Land & Environment Court subsequently granted consent for this proposal, including bulky goods warehousing.

In 2009 Council decided to prepare detailed guidelines for the Precinct enclosed by Terry Street, Victoria Road and Wellington Street, Rozelle. Council commissioned Allen Jack & Cottier to prepare a draft Masterplan and undertook extensive community consultation before adopting final Guidelines in October 2009.

In April 2011 Council endorsed a Planning Proposal for a residential re-zoning of the site and submission to the Gateway planning process.

The LEP amendment was gazetted on 28 December 2012.

#### **3.2 Site Approvals History**

<u>Date</u>	<u>Proposal</u>
Pre 1928	Laboratory operated by Elliot Brothers and a glassworks; details not known. Glassworks closed in 1880.
1928 - 1970	Commercial/industrial uses; 4-5 warehouses of unknown use on the site.
1970 - 2005	Site occupied by current warehouse. Used for sale and repair of air conditioning units from 1984. Hardstand area formed next to warehouse. Above ground storage tanks removed sometime between 1994 and 2004.  D/2004/632 – Change of use – bulky goods warehousing, retailing tenancies and parking. Approved.
2005 - 2009	Site purchased by Multiplex and warehouse vacated.
2009 - present	Current owners purchased the site from Multiplex and site remains vacated.

### **3.3 Amended plans and additional information received**

This report is based on plans and documentation including additional, amended and/or clarifying material received following from public notification of the proposal, and receipt of feedback from other Departments. None of the amendments involve any significant changes, and each amounts to a development having lesser impact than that originally notified. Consequently the receipt of this information does not necessitate re-notification under the terms of the *Leichhardt Development Control Plan No.36 - Notifications*.

The primary changes in the design from that notified are as follows:

- (i) Internal rearrangement of the southern-most loading dock so as to reduce the internal area which would otherwise have constituted gross floor area, pursuant to the definition of such in Leichhardt Local Environmental Plan. No change to number of parking spaces provided overall. Loading dock continues to be designed to accommodate vans and trucks for commercial tenants and for garbage collection. This has resulted in the deletion of open void areas adjacent to 126 Terry Street.
- (ii) Deletion of loading dock 2 (the dock which was to be entered via New Street) and designation of part of this space as a through-path for residents, and enlargement of the waste bin facility, so as to satisfy the requirements of Council's Waste management policies, and reduce that area which would otherwise have constituted gross floor area under LEP 2000.
- (iii) Further detail provided relating to the public domain interface of the buildings facing Terry Street – additional information provided identifying levels, materials, finishes and colours, plus changes to reduce height of palisade fencing abutting Terry Street, and rationalise entry gate areas from Terry St to each unit.
- (iv) Further detail provided in relation to technical requirements for stormwater management to satisfy Council's stormwater concerns.
- (v) Further detail provided in relation to traffic calming and pedestrian safety measures for Terry Street, in the vicinity of Margaret Street, to address concerns raised in regard to traffic management.
- (vi) Changes to landscape plans to provide more detail in relation to soil depths, watering management, and replacement of proposed tree species with species more suited to the size, location and orientation of designated landscape zones.
- (vii) Minor internal layout changes to the floor plans of designated adaptable units to minimise any future works necessary for the accommodation of a wheelchair reliant occupant.
- (viii) Clarification of basement carpark layout to demonstrate compliance with relevant Australian Standards for headheights, sight distances and disabled access.

- (ix) Formal written consent from neighbouring owner for removal of affected tree on adjoining property.

### **3.4 Voluntary Planning Agreement**

A Voluntary Planning Agreement applies to this application. Planning Agreements allow developers and Councils to agree to a package of community benefits that cannot necessarily be collected through conventional developer contributions.

The draft Voluntary Planning Agreement with the developer, ANKA Constructions Pty Ltd, was accepted by Council at the Ordinary Meeting on 28 June 2011. Council subsequently approved it for public exhibition at the Building and Development Council Meeting on 10 April 2012.

The Voluntary Planning Agreement has already been executed by the developer.

The Voluntary Planning Agreement provides for monetary contributions to be used for public purposes, estimated at approximately \$4,430,000 based on the planning proposal. This contribution consists of an amount to be used for Affordable Housing of approximately \$850,000, with the remaining amount of approximately \$3,580,000 to be used for other public purposes in the Council area including those purposes described in Council's s.94 Developer Contributions plans.

The Voluntary Planning Agreement also contains a provision that should the gross floor area of the development exceed a floor space ratio of 1.5: 1, an additional monetary contribution of \$3,000 per square metre is payable for public purposes, providing support for the primary floor space ratio controls by acting as a financial disincentive for floor space above 1.5:1. The Voluntary Planning Agreement also provides for the construction and dedication of a new public road.

Where appropriate, for this stage of proceedings, the undertakings of the VPA have been incorporated into the proposal plans. Other requirements will be reinforced by conditions as necessary.

## **4. ASSESSMENT**

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

### **(a)(i) Environmental Planning Instruments**

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy No.64 – Advertising and Signage
- 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
- State Environmental Planning Policy (Affordable Rental Housing) 2009

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2000 (specifically Amendment No.19)

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

The site has been used for a variety of industrial uses for most of the Twentieth century, and for much of that time was directly adjacent to the former Balmain Power Station. The property will require remediation prior to residential use and consequently has been accompanied by both a Remediation Action Plan, and a Hazardous Building Materials assessment. Due to the nature of known contaminants on the site, and the fact that the site is not within a Heritage Conservation Area, the remediation is classified as Category 2, for which specific development consent is not required.

Hazardous Building Materials Assessment: The scope of the current Hazardous Materials Assessment included:-

- Review of previous investigation, and inclusion of information herein as appropriate;
- Building Inspection - verify locations of hazardous building materials (where accessible);
- Sampling of suspected asbestos-containing materials and lead-based paints was undertaken (where possible). Where necessary, suspected asbestos-containing materials or lead-based paints were sampled when the nature or types of material was not clear;
- Eleven (11) asbestos analyses and ten (10) lead paint analyses were undertaken.

Asbestos containing materials (ACM) were identified in the following locations:

- Asbestos cement sheeting on the warehouse roof (presumed asbestos, not sampled), guttering and downpipes;
- Asbestos cement sheeting on the eaves of the three storey office building;
- Original electrical backing boards located throughout the warehouse (potential asbestos in some backing boards, not sampled as electricity was connected to the building).
- Fragments of asbestos cement in small pile on floor in warehouse.

Additional ACM may be present in areas not accessible, e.g. in conduits behind walls or beneath the floor slabs. The condition of the observed ACM was generally moderate to fair considering its age. Some minor fragmenting/ holes were noted. Inspection of the roof was limited due to its height and presence of internal insulation.

The removal of ACM is to be carried out in accordance with the regulations and requirements of the NSW Government and the National Occupational Health and Safety Commission (NOHSC) Code of Practice for the Safe Removal of Asbestos '1<sup>st</sup> Edition [NOHSC:2002(2005)]. All asbestos removal works will need to be conducted by an appropriately WorkCover licensed asbestos contractor. At the completion of asbestos removal a visual clearance inspection must be carried out by an experienced occupational hygienist prior to the asbestos removal areas being re-opened for general demolition. Written certification detailing the results of the visual clearance inspection will need to be provided.

All materials to be disposed off-site must be classified and disposed in accordance with the Protection of the Environment Operations Act (NSW) 1997 and NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008, revised 2009).

Remediation Action Plan - A review of the analytical results of the previous investigations conducted at the site by Douglas Partners Pty Ltd (DP) indicated that the majority of contaminants were at concentrations within the adopted site assessment criteria but certain heavy metal (mercury), TPH and PAH contaminants were, present at a number of locations at concentrations which would be deemed as contamination 'hot spots'. The detected contaminants are generally considered to be associated with the presence of ash and slag in the filling material located on the site, or with the presence of above ground tanks which have been removed.

The RAP has been developed based on the results of the following investigations conducted by Douglas Partners Pty Ltd (DP) and Rust PPK Pty Ltd (Rust PPK):-

. Rust PPK Pty Ltd "Phase 1 Environmental Assessment, 120 - 122 Terry Street, Rozelle, NSW2039" (ref 58GP193A.hat2, dated September 1995) [only draft executive summary available for review];

. DP "Report on Preliminary Contamination Investigation, 120 Terry Street, Rozelle" (ref 36896, dated 27 February 2004);

. DP "Report on Phase 2 Contamination Assessment, 120 Terry Street, Rozelle" (ref 36970, dated 17 May 2004);

. DP "Report on Supplementary Contamination Assessment, 120 Terry Street, Rozelle" (ref 36970A, dated 8 February 2005);

. DP "Report on Supplementary Contamination Assessment, 120 Terry Street, Rozelle" (ref 36970B, dated 28 July 2005);

. DP "Report on Remediation Action Plan, 120-122 Terry Street, Rozelle" (ref 44027, dated 21 August 2006);

. DP "Report on Human Health Risk Assessment, 120-122 Terry Street, Rozelle" (ref 44027A, dated 21 August 2006);

. DP "Report on Remediation and Construction Phase Site Management Plan, 120-122 Terry Street, Rozelle" (ref 44027B, dated 22 September 2006);



. DP Report on Phase 1 Contamination Assessment, Terry Street, Rozelle (ref 45185 dated 29 October 2007);

. DP "Factual Report on Additional Contamination Assessment, 120 Terry Street, Rozelle" (ref 44027.05, dated 7 September 2009);

. DP "Groundwater Monitoring Event - July 2011, 118-124 Terry Street, Rozelle" (ref 44027.07, dated 15 September 2011); and

. DP "Supplementary In situ Waste Classification Assessment, 118-124 Terry Street, Rozelle" (ref 44027.08, dated 02 November 2011)

The analytical results of the soil contamination assessments conducted at the site indicated that the concentrations of contaminants were generally below the adopted SILs (soil investigation levels) although in various locations, concentrations of certain heavy metals (mercury), TPH and PAH were detected at levels which are designated as 'hot spots'. The detected contaminants are considered to be associated with the presence of ash and slag materials in the filling located on the site and with residues from former above-ground fuel storage tanks. All tested results for potential contaminants including phenols, PCB, the heavy metals of arsenic, cadmium, chromium, copper, nickel and zinc, were either below the laboratory detection limits or detected within the respective soil investigation levels (SIL). The site is not therefore considered to be impacted by these contaminants. With respect to the heavy metals, lead and mercury, and total polycyclic aromatic hydrocarbons (PAH) including benzo(a)pyrene, exceedances of the soil investigations levels were identified during the investigations, including a number of hot spots (i.e. concentrations greater than 2.5 times the SIL).

The RAP is established on the basis of the previous investigation findings whilst taking into account the proposed development. Subject to acceptance of the RAP by the Site Auditor (Mr Graeme Nyland of Environ Pty Ltd), it is proposed that the remediation method will involve the removal of contaminated soil followed by disposal to an appropriate landfill. Following completion of the remediation activities, a validation assessment report will be prepared by a qualified environmental consultant in accordance with the NSW DEC Contaminated Sites Guidelines for Consultants Reporting on Contaminated Sites (1997) and other appropriate guidelines. The validation report shall confirm that the site has been remediated to a suitable standard to support occupation of the proposed development.

The RAP has been developed based on available standards and guidelines made and endorsed by the relevant authorities.

Based on the review of the findings of the previous investigations the extent of remediation required is limited to a number of sample locations that exceeded the adopted SIL for a number of contaminants including heavy metals (mercury). These contaminants are generally present within the filling on the site. As the proposed development includes the excavation of a one to two basement levels to depths between 3 m to 6 m below ground level the size of the excavation will comprise the greater majority of the site and therefore any contamination that may be present will eventually be excavated and disposed of to an off-site facility.

## State Environmental Planning Policy No.64 – Advertising and Signage

Although it is anticipated that signage will form part of the ongoing requirements of the business component of the development, following approval, this does not form part of the development application. Such signage is likely to consist of window signs, below awning signs and similar business identification signage, and will generally be Exempt development not requiring development consent.

The current application does, however, involve a request for large display sign advertising the proposed development, and located on the side of the Carrier warehouse building. This sign is temporary only and will be removed when the Carrier building is demolished to allow for construction of the development.

SEPP 64 applies to signage as follows:

### **6 Signage to which this Policy applies**

- (1) *This Policy applies to all signage:*
- (a) *that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and*
  - (b) *is visible from any public place or public reserve, except as provided by this Policy.*

The display signage for the development does not constitute prohibited development under the SEPP and can therefore be approved. The aims of the SEPP, inter alia, are to ensure signage

- (i) is compatible with the desired amenity and visual character of an area, and
- (ii) provides effective communication in suitable locations, and
- (iii) is of high quality design and finish

Subject to inevitable removal of the sign in order to facilitate development of the site, and suitable controls on light spill during the interim, it is considered that the sign is consistent with the above.

## State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development

SEPP 65 applies to the following development types.

- The erection of a new residential flat building (RFB); and
- The substantial redevelopment or the substantial refurbishment of an existing RFB; and
- The conversion of an existing building to a RFB.

An RFB is defined as a building that comprises or includes:

- Three (3) or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2m above ground level), and

- Four (4) or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.

The development is more than three (3) storeys and contains more than four (4) dwellings, and therefore, the provisions of the SEPP apply.

In accordance with clause 30(2) of SEPP No.65:

- (2) *In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
- (a) *the advice (if any) obtained in accordance with subclause (1), and*
  - (b) *the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*
  - (c) *the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*

The following table outlines Council's assessment of the proposal against the design principles of SEPP No.65.

Principle	Assessment	Comment
Principle 1: Context	<p>The site specific Development Control Plan and Leichhardt LEP amendment combine to establish appropriate context parameters for the site. These include height, form, setbacks and layout. These parameters have been arrived at over a number of years, and a great deal of community consultation. The proposal is consistent with these design parameters, and is considered to relate well to the built context of this area, and, specifically, to the desired future character of the locality.</p> <p>See assessment later in this report and Appendix 1 for further details.</p>	Satisfactory
Principle 2: Scale	<p>As identified above, the LEP amendment and DCP controls for the site identify appropriate scale for building components on the site, ranging from three storeys along the perimeters, to six stories internally. The submitted design is consistent with these controls.</p> <p>See assessment under Principle 1 above and the detailed assessments later in this report.</p>	Satisfactory

Principle 3: Built form	The DCP controls for the site envisage an apartment style group of buildings fronting Terry St, and the new street, and reflecting the character of the residential flat buildings established at Balmain Cove and Balmain Shores, opposite. The submitted design is consistent with these controls.	Satisfactory
Principle 4: Density	<p>The development complies with the FSR controls within the amended LEP, however compatibility of the built form to its context is an important consideration which has been carefully considered. The relationship of the proposed buildings will sit acceptably with their immediate neighbours.</p> <p>The commercial component of the development has also been carefully considered. This too is consistent with the specific FSR controls allowing for commercial development under the amended LEP.</p>	Satisfactory
Principle 5: Resource, energy & water efficiency	<p>The proposal meets ESD principles as follows:</p> <ul style="list-style-type: none"> <li>• Building designs are proposed that provide solar access to the living areas of as many dwellings as possible given the complexity of slope, shape and orientation of the site;</li> <li>• The majority of dwellings will be dual aspect providing for through ventilation;</li> <li>• The dwellings include features such as sunscreens, overhangs and external venetians and extensive glazing for natural daylight;</li> <li>• Proposed materials to be used provide appropriate thermal mass and insulation;</li> <li>• Energy and water saving commitments are proposed, such as energy efficient appliances, rainwater re-use and water efficient fixtures;</li> </ul>	Satisfactory

	<ul style="list-style-type: none"> <li>• Energy efficient hot water systems will be in use;</li> <li>• Rainwater from roofs will be collected for reuse on the site; and</li> <li>• Retention of extensive deep soil zones across the site.</li> </ul> <p>BASIX certificates for the proposal which outlines all energy and water saving commitments, such as energy efficient appliances and water efficient fixtures are also proposed.</p>	
Principle 6: Landscape	<p>Detailed and significant landscape plans have been provided which include the creation of a landscaped edge around the site and a large internal communal landscaped space. There is also a proposed linear park along New Road. All landscaped areas are located in areas consistent with the site specific controls, and with direct communal access for residents. These spaces will allow also for privacy planting between units, to further improve the amenity of those dwellings.</p> <p>The proposal will be conditioned to ensure that adequate soil depths are proposed across the site, and to retain trees where appropriate as required by Council's Landscape Assessment Officer.</p>	Satisfactory, subject to conditions
Principle 7: Amenity	<p>Internal amenity for most occupants is of a high standard. The scheme has been generally well designed with regard to room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p> <p>The provisions within the development are generally in excess of standard minimum requirements.</p>	Satisfactory,
Principle 8: Safety & Security	<p>The buildings have been designed to address the respective streets to ensure overlooking of public and communal spaces: Balconies and living areas are oriented to look towards the street where practical. Entrance-ways and ground</p>	Satisfactory, subject to conditions

	<p>areas will be well lit in accordance with a lighting plan to be recommended via condition, and security systems can be provided to all vehicle and pedestrian entrances. Care has generally been taken to avoid publicly accessible secluded areas. All parking has been provided in secure basement areas.</p>	
Principle 9: Social dimensions & housing affordability	<p>The proposed development will provide quality commercial spaces, through site links &amp; private and public outdoor spaces, including a new pedestrian access to and from Crystal Street. Many of the units will be one bedroom, which will assist in the provision of more affordable rental accommodation.</p>	Satisfactory, subject to conditions
Principle 10: Aesthetics	<p>Council originally had concerns about the relationship of the two Terry Street buildings to the public domain, and the streetscape appearance of these. (This matter is addressed in more detail under the site specific DCP headings). The applicant has since amended the materials and finishes palette and provided more clarification and detail for both buildings, which has assuaged Council's concerns in this regard.</p> <p>The composition of building elements such as facades, balconies, walls, columns, windows, roofs, sunshades and privacy screens, materials such as masonry glazing and metalwork, textures such as render, paint, cladding, stone &amp; colours, and the use of these modern materials and finishes, will result in a high quality external appearance of a modulated mixed-use development that will provide a strong contextual relationship to its surroundings and will make a generally positive aesthetic contribution to Balmain.</p> <p>The proposed buildings will provide a positive contribution to the desired future character of the area.</p>	Satisfactory

The proposal has been considered against the Residential Flat Design Code, and subject to conditions, is deemed to be satisfactory with respect to the intent and provisions of the code. See Attachment to this report for further details.

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

The amended proposal meets BASIX requirements, and a copy of the BASIX Certificates and BASIX Assessment report is accompanied by the required ABSA documentation prepared by Cundall numbered 402996M dated 2 August 2012. The proposal meets or exceeds the requirements of SEPP BASIX 2004.

### State Environmental Planning Policy (Infrastructure) 2007

In accordance with SEPP (Infrastructure) 2007, the development is classified as a Traffic Generating Development, and in accordance with Schedule 3 of the SEPP, was referred to Roads and Maritime Services (RMS).

Council received a response to this referral on 29 October 2012, following consideration at the Sydney Regional Development Advisory Committee (SRDAC) meeting on 7 November 2012. The SRDAC raised no objection, as it was considered that the development was unlikely to have significant traffic impact on the classified state road network.

### Leichhardt Local Environmental Plan 2000 (Amendment No.19)

The following summarises the assessment of the proposal against the development standards and lists the other relevant clauses of the Leichhardt Local Environmental Plan 2000.

The site has been zoned Residential pursuant to this amendment.

#### Clause 39(2) Floor Space Ratio

<b>LLEP 2000 Development Standard</b>	<b>Proposal m<sup>2</sup></b>	<b>Proposal ratio / %</b>	<b>Compliance</b>	<b>% of Non-compliance</b>
Floor Space Ratio – 1.5:1	21,272sq m	1.5:1	Yes	N.A

The amended plans comply with the floor space ratio development standard for the site under Amendment 19.

#### Clause 39(3)

(3) *Development consent must not be granted under this clause unless the consent authority is satisfied that:*

- (a) *a high standard of architectural and urban design appropriate to the building type and location will be achieved, with articulated height and massing providing an appropriate transition to the existing streetscape,*

Comment: There was initially concern within Council with regard to the interface, treatment and detailing of the buildings facing Terry Street, and the public domain. Council sought advice from Allen Jack & Cottier, with specific regard to resolution of the previously proposed ramped walling which dominated the streetscape at the southern end of Terry Street. This southern end contains site levels which are higher

than footpath level by between three and five metres, having originated with prior fill activities taking place on the site during its industrial life. At present the levels changes is grassed and treed, and is not considered to be dominating or intrusive in relation to the street (see photo below)



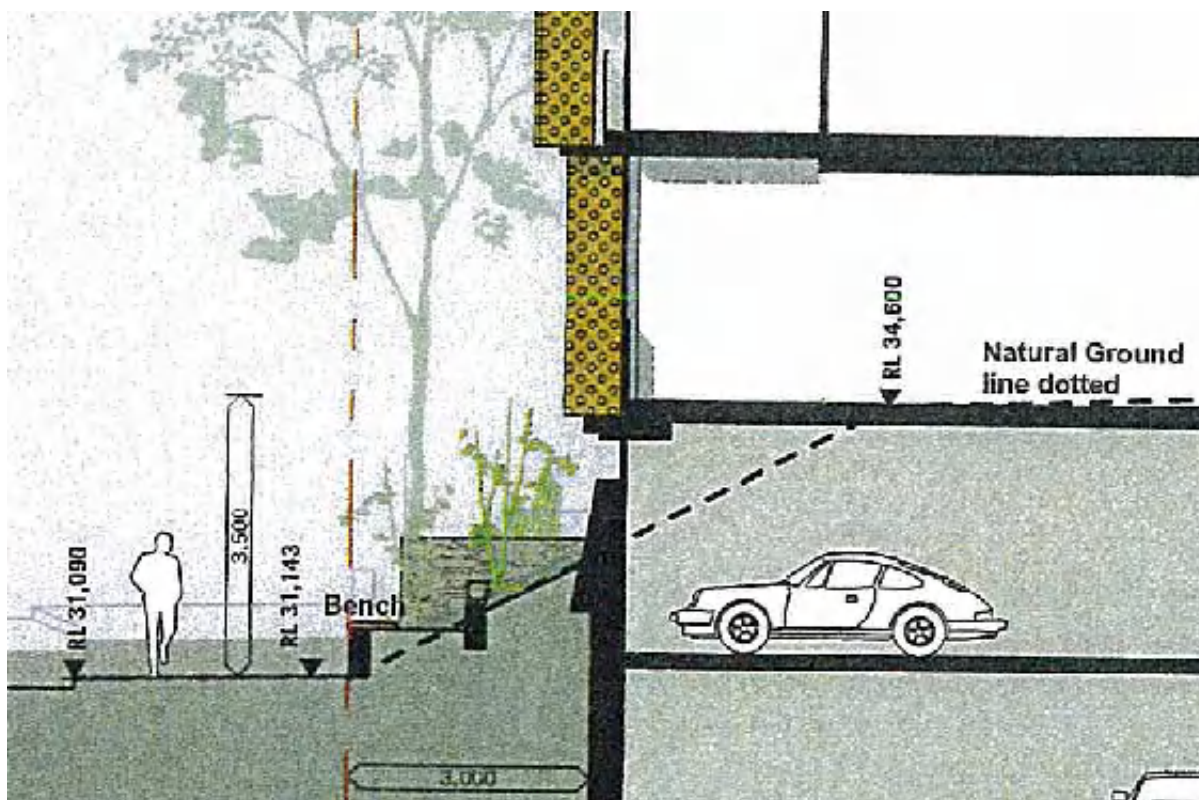
*(Photo – Looking towards existing embankment of the site at the lower end of Terry Street).*

The draft planning proposal document, which set out the development parameters for the site, indicated as a rough schematic, a simple ramped wall of up to five metres in height, with the stipulated three storey apartment building commencing above. At lodgement, the submitted elevations reinforced this ramped walling effect. Council was concerned that this would present a fairly harsh visual effect within Terry Street, in a manner not compatible with pedestrian comfort or safety, and not in keeping with the existing residential character on the other side of the street, nor the desired future character nominated elsewhere in the planning proposal.

Advice from AJC suggested that this ramped wall would inter-relate better with the public domain if it was redesigned as a stepped terrace, landscaped with terrace gardens, and terminating at street level with a series of stone walls, some of which, where levels permitted, should be low enough to function as street benches.

Council concurred with this advice, and informed the applicant that such redesign needed to be incorporated into the proposal. The latest set of documents have achieved this, as shown below.





*(Detail – stepped landscaping/walling treatment between Terry Street footpath and proposed apartment building C)*

- (b) *the total gross floor area of the part of the development that is used for the purposes of commercial premises, shops and refreshment rooms will not exceed 1,300 square metres,*

Comment: The submitted plans conform to this requirement.

- (c) *the development will not exceed:*  
 (i) *if a building has a street frontage on Terry Street—3 storeys in height, or*  
 (ii) *in any other case—6 storeys in height,*

Comment: The submitted plans conform to this requirement.

- (d) *the development will minimise overshadowing of neighbouring properties on Crystal Street,*

Comment: The application has been accompanied by shadow diagrams demonstrating the permitted shadow extent as encompassed within the building footprints and envelopes permitted by the planning proposal, and the actual shadow extent based on the submitted development application design. There are slight differences between the two, however the areas of additional shadowing falling outside the expected parameters only falls onto roofs of nearby buildings, or on to roads/public domain. There is no additional overshadowing of any window or private open space of any neighbouring property on Crystal Street. The proposal thus complies with the above.

- (e) *the development will not significantly increase the amount of traffic on Terry Street, Wellington Street, Merton Street, Nelson Street or Victoria Road, Rozelle,*

Comment: Traffic generation from the development falls comfortably within the Traffic budget established for the site, and consequently satisfies the above. See Traffic Engineer's comments later in this report for a more detailed assessment of traffic implications.

- (f) *those parts of the development that are not residential development will not have a significant adverse impact on local commercial centres,*

Comment: The amended LEP and planning controls have allowed for a stipulated maximum proportion (1300sqm) of the development to be non-residential, contained to a small area adjacent to Terry Street. As such the development has conformed with these requirements, and can be deemed to have satisfied this objective.

- (g) *the development will provide and facilitate pedestrian and cycle access through the Terry Street site to Merton and Margaret Streets,*

Comment: The development has incorporated New Road precisely as set out in the diagrams accompanying the planning proposal. New Street ends at the rear boundary of the adjoining Wellington Street properties, as those properties are not owned by the developer. Therefore, as far as the developer is able, pedestrian and cycle access has been facilitated and provided as per the above.

- (h) *the development will incorporate environmentally sustainable design principles,*

Comment: The application has incorporated solar access and cross-ventilation to dwellings in excess of the minimum obligations under BASIX and SEPP 65. The development also incorporates roof gardens, increased deep soil areas, rainwater harvesting, organic waste management and composting areas on site, as well as bio-swales to capture pollutants prior to release of surface level rainwater. The development has achieved a Four Green Star environmental rating, in keeping with current "best practice" expectations for multi-residential development.

- (i) *the development will include the necessary design and acoustic measures to ensure that light industries within the development, as well as any existing industrial uses on land surrounding the development, do not have a significant adverse impact on the amenity of future residents of the development,*

Comment: None of the residential units directly face and industrial site, but rather are physically separated by buffer zones of landscaping, as envisaged by the planning proposal. It is considered this objective has been satisfied.

- (j) *light industries will only be located in buildings that have a street frontage on Crystal Street.*

Comment: The submitted plans conform to this requirement.

## Leichhardt Local Environmental Plan 2000

- Clause 12 – Vision of the plan
- Clause 13 – General Objectives
- Clause 15 – Heritage Objectives
- Clause 16(7) – Development in the Vicinity of a heritage item
- Clause 16(8) – Development in Conservation Areas
- Clause 17 – Housing Objectives
- Clause 19(3) – Landscaped Area
- Clause 20 -Employment Objectives
- Clause 30 – Subdivision of Land
- Clause 35 – Suspension of Covenants, Agreements and Instruments

The development site is not located within a Heritage Conservation Area, nor is it within close proximity to any Item of Environmental Heritage. The site does abut the Rozelle Conservation area, located across Terry Street. The relationship between the development and the apartment buildings/townhouses opposite is not one which necessitates a specific heritage outcome however, as the apartments/townhouses opposite are all of contemporary construction. There is no aspect of the site which has a direct physical or visual relationship with any heritage fabric or heritage streetscapes. As such, it is considered that Clauses 15, 16 and the heritage provisions of Clauses 13 and 17, are satisfied.

### Clause 12 Vision of the Plan

*The vision of the Plan is to conserve and enhance the quality and diversity (social and physical) of the natural, living, working and leisure environments of the local government area of Leichhardt. The protection of the amenity of residents should be pre-eminent*

Comment: The site specific controls of the LEP amendment, and the site specific DCP controls have all been predicated on satisfying this underlying objective. The development, if approved, will provide for new natural, living, working and leisure environments with minimal impacts on the amenity of (existing) residents.

### Clause 13 General objectives

(1) *The general objective for **ecologically sustainable development** is to encourage the incorporation of the principles of ecologically sustainable development in the design and management of the built and natural environment to:*

- (a) provide for the preservation of natural resources to ensure their availability for the benefit of future generations, and*
- (b) minimise negative impacts of urban development on the natural, social, physical and historical environment, and*
- (c) maintain and enhance the quality of life, both now and for the future.*

(2) *The general objective for the **built and natural environment and amenity** is to encourage the design of buildings, structures and spaces which are compatible with the character, form and scale of the area to:*

- (a) protect and enhance the area's natural features, character and appearance, and*

- (b) protect, conserve and enhance the area's heritage, and*
- (c) provide an environment meeting the principles of good urban design, and*
- (d) maintain amenity and contribute to a sense of place and community, and*
- (e) provide an environment which is visually stimulating, while being easy to manage and maintain, and*
- (f) provide adequate access and linkages to public open space, and*
- (g) accommodate the existing and future needs of the locality concerned, and*
- (h) protect and conserve ecologically sensitive land, particularly that which is visually exposed to the waters of Sydney Harbour and the Parramatta River and of natural or aesthetic significance at the water's edge.*

*(3) The general objective for **transport and access** is to encourage the integration of the residential and non-residential land uses with public and private transport and improve access to:*

- (a) reduce the need for car travel and subsequent pressure on the existing road networks, and*
- (b) maximise utilisation of existing and future public transport facilities, and*
- (c) maximise the opportunity for pedestrian and cycle links, and*
- (d) identify and ameliorate adverse impacts of all transport modes on the environment, and*
- (e) improve road safety for all users, particularly pedestrians and cyclists.*

Comment: The LEP and DCP have provided for ecologically sustainable measures to be incorporated within the development. The buildings, and their spaces, have been designed to respond appropriately to the surrounding character. The development site is within a short walk of frequent, and direct, bus services to and from the city CBD, the inner west, and connecting to other forms of public transport including ferries, trains and light rail. In summary, it is considered the development satisfied the provisions of Clause 13 of LEP 2000.

## 17 Objectives (Residential)

*The objectives of the Plan in relation to housing are as follows:*

- (a) to provide development standards to ensure that the density and landscaped areas of new housing are complimentary to and compatible with the style, orientation and pattern of surrounding buildings, works and landscaping and to take into account the suite of controls in Leichhardt Development Control Plan 2000 to achieve the desired future character,*
- (b) to provide landscaped areas that are suitable for substantial tree planting and of a size and location suitable for the use and enjoyment of residents,*
- (c) to provide for a minimum residential allotment size in order to protect the area's diverse subdivision pattern and to ensure the orderly and economic use and development of residential land,*
- (d) to provide a diverse range of housing in terms of size, type, form, layout, location, affordability and adaptability to accommodate the varied needs of the community, including persons with special needs,*

*(e) to improve opportunities to work from home.*

Comment: The development application complies with the Floor Space Ratio control for the site as calculated under LEP 2000.

Landscaped area provision is dictated by the site specific DCP which has identified the location, style, character and intent of landscaped areas required to service this development. The application has satisfied those requirements – see later assessment under site specific DCP controls. Similarly, the housing objectives of parts (d) and (e) are also governed by the site specific controls. Part (c) is not relevant to this application.

#### Clause 20 Objectives (Employment)

*The objectives of the Plan in relation to employment are as follows:*

- (a) to ensure the sustainable growth of Leichhardt's economy by retaining existing employment uses and fostering a range of new industrial and business uses to meet the needs of the community,*
- (b) to reinforce and enhance the role, function and identity of established business centres by encouraging appropriate development and to ensure that surrounding development does not detract from the function of these centres,*
- (c) to integrate residential and business development in business centres,*
- (d) to ensure that buildings to be used for employment are appropriately located and designed to minimise the generation of noise, traffic, car parking, waste, pollution and other adverse impacts, to maintain the amenity of surrounding land uses, and avoid harm to the environment,*
- (e) to ensure the continuation of commercial port uses and railway uses,*
- (f) to allow a range of water-based commercial and recreational facilities in waterfront areas in order to retain the visual diversity and maritime character of the area,*
- (g) to ensure non-residential development in residential zones does not detract from the function of the established business centres.*

Comment: The proposal has conformed with the adopted planning parameters for the site. These include a discrete shopping locale of no more than 1300sqm, allowing for small local shops, cafes and the like. Given the limited size it is not anticipated that this would compete with the established mainstreet of Darling Street, to the north.

#### Temporary display unit (exhibition home)

Consent is also sought under the terms of this application for a temporary display unit. This has been assessed as follows:

- Leichhardt Local Environmental Plan 2000

Signs: The property is zoned Residential under Leichhardt Local Environmental Plan 2000 (with site specific controls allowing for certain other uses). The Residential land use table in Leichhardt Local Environmental Plan 2000 permits 'Advertisements'. In particular, the signs are designated as 'Real Estate signs' (Council's planning controls do not contain a definition for Building Identification signs, as contained in SEPP 64, however real estate signs would perform the same, or a very similar,

function i.e identification of the building/s which are intended to be constructed on the site). Real estate signs are permissible in the zone.

Use and parking: The display unit is defined as an “*exhibition home*” pursuant to LEP 2000, and is permissible in the Residential Zone. As the construction work is contained within the envelope of the existing building, and the external works amount to new parking layout on an existing parking area to accommodate not more than thirteen (13) car spaces plus bicycles, there are not considered to be any implications for the neighbouring heritage conservation area, nor does the development affect the provision of landscaping on the site.

- Leichhardt Development Control Plan 2000

#### A8.0 Parking Standards and Controls

Council has no nominated parking rate for a display unit. Council’s engineers have assessed the proposal and raises no issues in regard to the number of spaces proposed. Conditions are recommended in relation to an appropriate layout.

#### A9.0 Advertising and Signage

DCP 2000 imposes number and size limits on real estate signs i.e one per premises. The DCP however is predicated on standard single lot sales and does not make allowance for multi-unit residential complexes, or strata titled properties. Given the size of the property, the size of the existing buildings and the nature of the intended development, having a number of signs, including the large 112sqm sign, whilst outside the anticipated parameters of the DCP, is not incompatible with the site or the proposed development or the broader objectives of Part A9.0 with regard to the contextual compatibility of signage.

Appropriate conditions are included to deal with the operation and eventual removal of the display unit, should this part of the application proceed.

### **(a)(ii) Draft Environmental Planning Instruments**

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- Draft State Environmental Planning Policy (Competition) 2010
- Draft Leichhardt Local Environment Plan 2012

The proposal complies with both draft instruments. Further clarification of the Draft Leichhardt Local Environment Plan 2012 is provided below.

#### Draft Leichhardt Local Environment Plan 2012

The Draft Leichhardt Local Environment Plan 2012 commenced exhibition on the 17th December 2012 and is therefore a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

The site is zoned as per Amendment 19 under the Leichhardt Local Environment Plan 2012 and the proposal is permissible in the draft zone and is consistent with the

future planning objectives for the area in the draft Leichhardt Local Environmental Plan. The site will continue to be governed by the site specific development standard/s and objectives encompassed in Amendment 19, which will be directly translated into the Draft LEP 2012.

The following summarises the assessment of the proposal against the draft development standards and lists the other relevant clauses of the draft Leichhardt Local Environmental Plan 2012.

<b>Draft LLEP 2012 Development Standard</b>	<b>Proposal</b>	<b>Proposal ratio / %</b>	<b>Compliance</b>	<b>% of Non-compliance</b>
Floor Space Ratio – 1.5:1		Less than 1.5:1	Yes	N.A
Site Coverage – maximum 60% of site Area	58%	58%	Yes	N.A
Landscaped Area – minimum 10% of site area	2000sqm	14%	Yes	N.A
Subdivision – minimum 200sqm	N.A	N.A	N.A	N.A

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.6 – Subdivision Requirements
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.1 – Minimum subdivision Lot size
- Clause 4.3A – Landscaped Area for residential development in Zone R1
- Clause 4.3B – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A – Floor Space Incentives for active street frontages
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.9 - Preservation of trees or vegetation
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.3 - Adaptive reuse of existing non-residential buildings in Zone R1
- Clause 6.4 - Use of non-residential buildings in Zone R1
- Clause 6.6 - Development in areas subject to aircraft noise
- Clause 6.8 – Flood Planning
- Clause 6.9 – Foreshore Access
- Clause 6.10 – Foreshore Building Line
- Clause 6.12 – Stormwater Management

The application satisfies the provisions of the above draft Leichhardt Local Environmental Plan 2012.

### **(a)(iii) Development Control Plans**

The application has been assessed against the relevant Development Control Plans listed below:

- Leichhardt Development Control Plan 2000
- Leichhardt Development Control Plan No.32 – Equity of Access
- Leichhardt Development Control Plan No.36 – Notifications
- Leichhardt Development Control Plan No.38 – Waste: Avoid, Reuse, Recycle
- Leichhardt Development Control Plan No.42 – Contaminated Land Management

More specifically, the application has been assessed against the following clauses of Development Control Plan 2000.

## **D2.0 – Site Specific Controls ANKA Site 118-124 Terry Street Rozelle**

### ***Desired Future Character Statement***

*The site currently lies within the Rozelle Commercial Neighbourhood (section A10.5.5 of DCP 2000) and next to the Iron Cove Distinctive Neighbourhood (section A10.5.4 of DCP 2000).*

*The rezoning of the site to Residential will result in a new character that will need to be compatible with these adjoining neighbourhoods.*

*The new character of the site should:*

- *respond to the topography of the site, the character of existing streets, adjacent residential and industrial uses; maintain the character of the area by ensuring new development is complementary in terms of its architectural style, built form and materials,*
- *improve the streetscape amenity by improved design and layout of buildings as well as increased attention to site usage, signage and ancillary uses,*
- *promote a mix and variety of uses and building styles that enhance and contribute to the character and identity of the neighbourhood, whilst protecting local townscape,*
- *improve pedestrian and cycle accessibility, safety and facilities to take full advantage of low cost/public transport services in the area,*
- *protect and enhance the residential amenity of dwellings in and adjoining the neighbourhood,*
- *encourage appropriate lighting and signage consistent with the character of the area, and*
- *encourage sympathetic colour schemes, corporate identity and signage for commercial buildings that define the character of the area, yet retain the individual identity of each property.*

*These Desired Future Character requirements will create a new Local Area Character for the site.*

Comment: The above stipulations were accompanied by a number of plans and drawings which form part of the DCP site specific controls. These plans identify the location of buildings, open space and public domain, and the submitted application is in conformity with those requirements. The submitted application was accompanied by supporting documentation to identify how the more subjective components above will be achieved, consistent with the specific controls which follow.



## D2.6 Public Domain

### D2.6.1 Integration with existing road network

#### Objectives

- To ensure that the public domain components of the development contribute to an activated, human scale street environment.
- To ensure that intersection design, streetscape elements and landscaping support the pedestrian, cyclist and vehicular movement system in and adjacent to the development.
- To provide for the construction and integration of a new public road, incorporating a four way intersection with Terry Street and Margaret Street and which establishes the potential for a physical link to Merton Street.
- To ensure that where modifications to road layout and alignment are implemented that all areas of land within the road reserve are dedicated to Council.
- To ensure that Terry Street, the new road and intersection can accommodate a safe environment for all road users, including pedestrian, bicycle and vehicular traffic on both sides of the road.
- To make provision for a 'shared' or 'slow' zone to be designed and constructed in the new street.



Figure 3 – Public Domain (also shows building layout, height controls) from site specific DCP.

## **Controls**

### **New road**

- i. *The design, layout and alignment of the new road is generally to be in accordance with **Figure 2: Terry Street & Margaret Street intersection design** and **Figure 3: Public Domain**, subject to detailed design development in consultation with Council.*
- ii. *The final design of the new road is to be considered at the Development Application stage.*
- iii. *The design of the new road must comply with the requirements of Austroads, all relevant Australian Standards and Council's Roadworks Specifications.*
- iv. *The new road is to incorporate the following elements as a minimum requirement:*
  - *Total width of road reserve = 16.0 metres*
  - *Generally consisting of:*
    - *900mm out from property boundary, both sides, to be set aside for services, street lights, etc*
    - *1800mm footpath, both sides*
    - *2300mm from face of kerb for parallel parking, both sides*
    - *3000mm lane width x 2**except where varied in accordance with Council approved plans, sections and specifications for the provision of a 'shared' or 'slow' zone.*
- v. *The new road is to be constructed in accordance with Council requirements.*
- vi. *All land within the new road reserve is to be dedicated to Council in accordance with the requirements of any applicable Development Consent granted.*
- vii. *Approval must be granted by Council's Manager – Assets for any turning area to be provided at the Merton Street end of the new street.*
- viii. *The design of the setback to the new street frontage must be in accordance with Council approved sections and plans.*

Comment: The design of New Road exactly matches the diagram and dimensions identified above. There have been some minor modifications to design detail during the assessment process which have been aimed at facilitating the dedication of the road as a formal "shared zone" consistent with RMS guidelines. These modifications have largely been to bioswale/stormwater pit design, kerb and guttering, and have not significantly altered any essential aspect of the proposed street.

### *Intersection of Terry Street, Margaret Street and the new road*

- ix. *The design and construction of the new intersection and road is generally to be in accordance with **Figure 2: Terry Street & Margaret Street intersection design** and **Figure 3: Public Domain**, subject to detailed design development in consultation with Council.*
- x. *Council approval of design details, including dimensions, alignment, landscaping, materials, threshold treatments and parking will be required prior to construction of the intersection.*
- xi. *All land within the modified road reserve is to be dedicated to Council.*

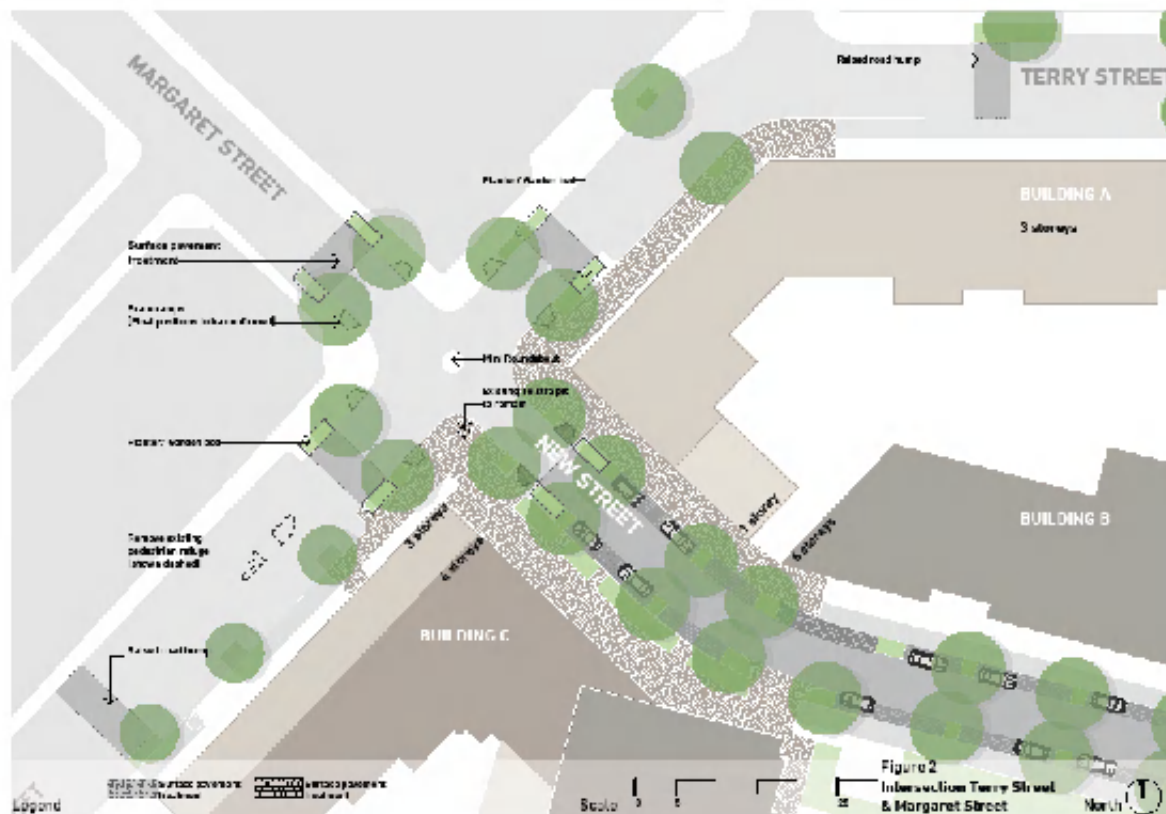


Figure 2 – Intersection Terry Street and Margaret Street from DCP

#### Terry Street

- xii. Land required to accommodate minor modifications to Terry Street near the intersection of Wulumay Close, as identified in **Figure 4: Terry Street Road Alignment**, is to be dedicated to Council.
- xiii. The design of the 3m setback to Terry Street building frontage must be in accordance with Council approved sections and plans.

#### D2.6.2 Through site links

##### Objectives

- a. To facilitate pedestrian access through the site to link the new road and Crystal Street.

##### Controls

- i. A pedestrian path providing unobstructed public access is to be provided between the new street and Crystal Street as shown on Figure 5: Neighbourhood Centre Integration, Active Frontages and Vehicle Access.

Comment: A pedestrian through-link has been provided alongside Building C to Crystal Street as required.

#### D2.6.3 Active frontages

##### Objectives

- a. To ensure that uses and frontages of buildings adjacent to the intersection of the new street and Terry Street contribute to the activation of the public domain and facilitate and support a vibrant neighbourhood centre, which serves the local community.

- b. *To ensure that the non-residential character of Crystal Street is maintained.*
- c. *To ensure that design of residential frontages maximises surveillance of the public domain and reinforces the activation of the street environment.*
- d. *To ensure that façade articulation and elements within the building setback areas facilitate an active street environment.*

## **Controls**

### *Neighbourhood Centre*

- i. *The ground floor of buildings in locations as indicated in Figure 5 are to accommodate active uses including shops, cafes and restaurants and appropriate commercial uses and access to buildings.*
- ii. *Informal/outdoor eating areas associated with food and drink premises may be provided within the public domain and will be subject the controls contained within Development Control Plan No. 48 - Approvals Policy Managing Activities on Footpaths and Verges.*

Comment: These are essentially matters of post-determination, however the plans allow for them to be achieved.

### *Live/Work development*

- iii. *Active light industrial/commercial floor space is to be located fronting Crystal Street at ground floor level (refer to Figure 5).*
- iv. *Live/work units are to be designed to provide active light industrial/commercial floor space at ground level with the residential component located above and must be accessible via an internal stairway.*
- v. *Any dwelling in the live/work development must be on the same title as the corresponding ground floor active employment use and must not be an individual lot in a strata plan or community title scheme.*

Comment: The plans incorporate three live/work units directly accessed off Crystal Street. These units include ground floor open plan spaces suited to a variety of uses, with the living quarters of each dwelling contained on the level above, and directly accessible from the ground floor via an internal staircase. Compliance has thus been achieved.

### *Residential – General*

- vi. *Direct pedestrian access from the street to ground floor apartments should be provided where possible.*
- vii. *The design of the building setback area to the new street building frontage must be in accordance with Council approved sections and plans.*
- viii. *Building frontages are, wherever possible, to incorporate balconies, direct street access, windows, terraces and other built form elements to maximise opportunities for visual surveillance of the street environment and physical access from the buildings to the street environment directly adjacent.*

Comment: The submitted plans were followed by further detail establishing that this objective has been met. See elevation detail following:





*(Original Elevation/photomontage of Building A facing Terry Street – note tall trees, individual unit entries and high front fencing)*



*(Amended Elevation detail of Terry Street – Building A – amended/clarified to demonstrate movable louvres, shared street entry points, lowered front wall height and more appropriate tree planting.)*

*Residential – Terry Street south of the new road*

- ix. *Direct pedestrian access from the street to ground floor apartments should be provided where possible.*
- x. *Landscaped terraces should be incorporated into the building setback area along Terry Street, where appropriate, to provide a link between the building frontage and the street where there is a change in level.*
- xi. *Low walls which establish informal seating along the street frontage are to be incorporated in various locations.*

Comment: The site has a number of significant level differences across the public domain frontages, however where feasible such street furniture as envisaged by the DCP has been incorporated.

**D2.6.4 Views**

**Objectives**

- a. *To protect views from the public domain, across and over the site consistent with the planning controls in this Development Control Plan.*

**Controls**

- i. *A view analysis is to accompany any development application and is to identify any private views currently obtained from neighbouring residential properties.*
- ii. *In the event that such views are compromised by the proposal the Development Application is to be accompanied by an analysis and justification having regard to *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.*

Comment: No surrounding property owner has identified any view loss concern to Council. Given the levels and orientation of nearby residential developments no view loss is anticipated.

**D2.6.5 Awnings**

**Objectives**

- a. *To ensure that awnings or weather protection structures serve to enhance public use and amenity of non-residential ground floor buildings and the streetscape.*

**Controls**

- i. *Buildings with non-residential ground floor uses along Terry Street and the new street are to incorporate an awning or weather protection structure at first floor level.*
- ii. *The setback from the kerb of any awning or weather protection structure is to be a minimum of 300mm and may be up to 600mm.*
- iii. *Awnings and weather protection structures are to be complementary to the building and streetscape in terms of materials, detailing and form.*
- iv. *Awnings and weather protection structures will not be permitted at the entry to the buildings where the ground floor use is residential if they encroach upon the public domain.*

Comment: Awnings have been shown on plans and elevations as required.

## **D2.6.6 Street Trees**

### **Objectives**

- a. *To ensure that street tree planting is consistent with Councils street tree policy.*

### **Controls**

- i. *Street tree planting along Terry Street is to be Lophostemon confertus (Brush Box) – 100 litre container stock.*
- ii. *All planting in the public domain, including the new street is to be in accordance with council approved landscape plans and specifications.*

Comment: The amended plans have demonstrated this.

## **D2.7 Built form and design**

### **D2.7.1 Building height**

#### **Objectives**

- a. *To ensure that height of the buildings in the development responds to the scale, character and form of existing streetscapes.*
- b. *To ensure that new buildings are modulated in height so that there is no additional overshadowing on adjacent properties beyond that shown in Figure 7: Shadow Diagrams 21st June.*

#### **Controls**

- i. *Except as defined for the purposes of calculating Floor Space Ratio in D2.7.2, ground level is determined by Leichhardt Local Environmental Plan 2000.*
- ii. *The maximum height of buildings and number of storeys is to be determined from ground level and is to be in accordance with Amendment 19 to Leichhardt Local Environmental Plan 2000.*
- iii. *The number of storeys permissible is not to exceed 6 storeys in the centre of the site and three storeys around the perimeter of the site, in accordance with Figure 6: Heights and must not result in additional overshadowing of adjacent properties, Crystal Street properties and Wellington Street properties beyond that shown in Figure 7: Shadow Diagrams 21st June.*
- iv. *Structures including roof elements, lift overruns and landscape elements may be provided on podium areas or rooftops above the specified number of storeys, subject to consideration of potential impacts on the streetscape, the amenity of the adjoining properties and the overall character of the area.*

### **D2.7.2 Building bulk**

#### **Objectives**

- a. *To provide buildings which have a bulk and scale which reflect their context and include setbacks and modulation to reduce visual bulk.*

#### **Controls**

- i. *A 1.5:1 Floor Space Ratio limit applies to the subject land in accordance with Amendment 19 to Leichhardt Local Environmental Plan 2000.*
- ii. *Floor space ratio is to be calculated in accordance with the provisions and definitions as contained in Leichhardt Local Environmental Plan 2000.*
- iii. *Modulation of building bulk is to be in accordance with other provisions, including height, setback and active frontage controls as contained in this Development Control Plan.*

Comment: The amended plans comply fully with the 1.5:1 floor space ratio control which applies to the site. Modulation of the building bulk has been varied to reflect the height, setback and active frontage controls of the DCP.

### **D2.7.3        Setbacks and articulation**

#### **Objectives**

- a. *To ensure that buildings are modulated and articulated to respond to streetscape, visual bulk and amenity issues.*
- b. *To ensure that the fourth storey of Building C fronting Terry Street south of the new road is to be setback so that it is not visible from the east side of Terry Street.*
- c. *To minimise impacts on the solar access of the rear of properties in Wellington Street.*

#### **Controls**

- i. *Setbacks are to be provided in accordance with the details in Figure 8: Setbacks.*
- ii. *The four storey component of Building C is to be setback 8m from the property boundary along the Terry Street frontage, south of the new road.*
- iii. *In instances where there is a conflict between setbacks and the approved shadow line as indicated in Figure 8: Setbacks the approved shadow line will apply.*
- iv. *Additional articulation of building forms and elements may be permitted to encroach within the nominated building setback subject to Council consideration of detailed elevations and sections.*
- v. *The fourth floor of Building B is to be reduced in size at the north-east corner and setback an additional 3.15m from the Wellington Street properties rear boundary increasing the Figure 8: Setback at this location to 9.15m and reducing the upper two floors of Building B setback at the same location from 21.7m to 16m in accordance with Figure 12 Supplement to Figure 8 Setbacks.*

Comment: The required setbacks have been satisfied.

### **D2.7.4        Building separation**

#### **Objectives**

- a. *To ensure that buildings have adequate separation to minimise visual bulk and to ensure adequate amenity within the site.*

#### **Controls**

- i. *Separation between buildings should be provided as required by the Residential Flat Design Code (RFDC) which forms part of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65).*

Comment: The required building separation has been satisfied.

### **D2.7.5        Building materials and finishes**

#### **Objectives**

- a. *To ensure that buildings have a high quality appearance and have regard to the character of the surrounding area.*



### **Controls**

- a. *Building and landscape materials are to be fit for purpose and reflect the Desired Future Character Statement, be appropriate for climatic conditions and be of high specification to ensure long term quality and sustainability of the development.*
- b. *Materials to be used may include:*
  - *Heavy materials for the base structure: concrete, masonry, render.*
  - *Lightweight materials for the top of the building to allow flexibility in roof form: steel, aluminium and other metallic materials.*
  - *Screening elements: to provide enhanced privacy to the occupants of the development as well as to adjoining residential properties.*

Comment: The materials and finishes palette for the development combines masonry, stone, render, timber and metal and is considered to satisfy the above.

### **D2.7.6 Design of building elements**

#### **Objectives**

- a. *To ensure that fronts, backs and tops of buildings have a high quality appearance and have regard to the character of the surrounding area.*

### **Controls**

- i. *Buildings are to be designed in accordance with the Desired Future Character Statement.*
- ii. *The design of building elements should provide an appropriate interface between the older, more traditional areas on the slopes leading up to the Darling Street shopping strip and the contemporary residential developments leading down to the shores of Iron Cove to the north and west.*
- iii. *The design of the buildings should be of contemporary design, be fit for purpose for those visiting, working, or residing within the development and nearby.*
- iv. *Buildings and landscape elements, including balconies, entries, rooflines and screening are to contribute to the character of the streetscape, enhance opportunities for visual supervision of the public domain, reduce overlooking, enhance residential amenity and make a positive contribution to place identity.*

Comment: In the opinion of Council these objectives and controls have been met. The building presents a style, detailing and finish which, combined with the allowed bulk and setbacks, will contribute positively to the area.

### **D2.7.6 Disability access**

#### **Objectives**

- a. *To ensure that access to the development and its surrounds is maximised for people of all abilities and needs.*

### **Controls**

- i. *The provisions of Development Control Plan 32 – Design for Equitable Access apply.*

Comment: Disabled access is provided to each building/shop, within the basement carpark and to the common/public areas. Provision has been made for adaptable dwelling units in accordance with the DCP.

### **D2.7.7 Signage**

#### **Objectives**

- a. *To allow the neighbourhood centre and light industrial space to provide appropriate signage whilst ensuring that such signage does not result in visual clutter and is compatible with its context.*

#### **Controls**

- i. *All signage is to be located on those parts of the building used for non-residential purposes.*
- ii. *Signage must be for non-residential purposes and be in accordance with controls contained in section A9.0 Advertising and Signage of Development Control Plan 2000.*

Comment: No detail has been lodged with regard to signage. Non-residential signage is likely to be installed as part of use applications/fit outs of the business tenancies, and would be controlled at that stage of the process.

### **D2.8 Residential Amenity**

#### **D2.8.1 Solar access**

##### **Objectives**

- a. *To optimise solar access to habitable rooms and private open space of new housing to improve amenity and energy efficiency.*

##### **Controls**

- i. *All development is to be constructed in accordance with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65).*

Comment: The development exceeds the solar access requirements of SEPP 65.

#### **D2.8.2 Cross ventilation**

##### **Objectives**

- a. *To ensure that dwellings have good access to fresh air and that energy efficiency is maximised.*

##### **Controls**

- i. *All development is to comply with the provisions contained in B2.4 of Leichhardt Development Control Plan 2000.*
- ii. *60% of residential units should be naturally cross ventilated in accordance with the Residential Flat Design Code (RFDC) which forms part of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65).*

Comment: The development exceeds the natural ventilation requirements of the SEPP.

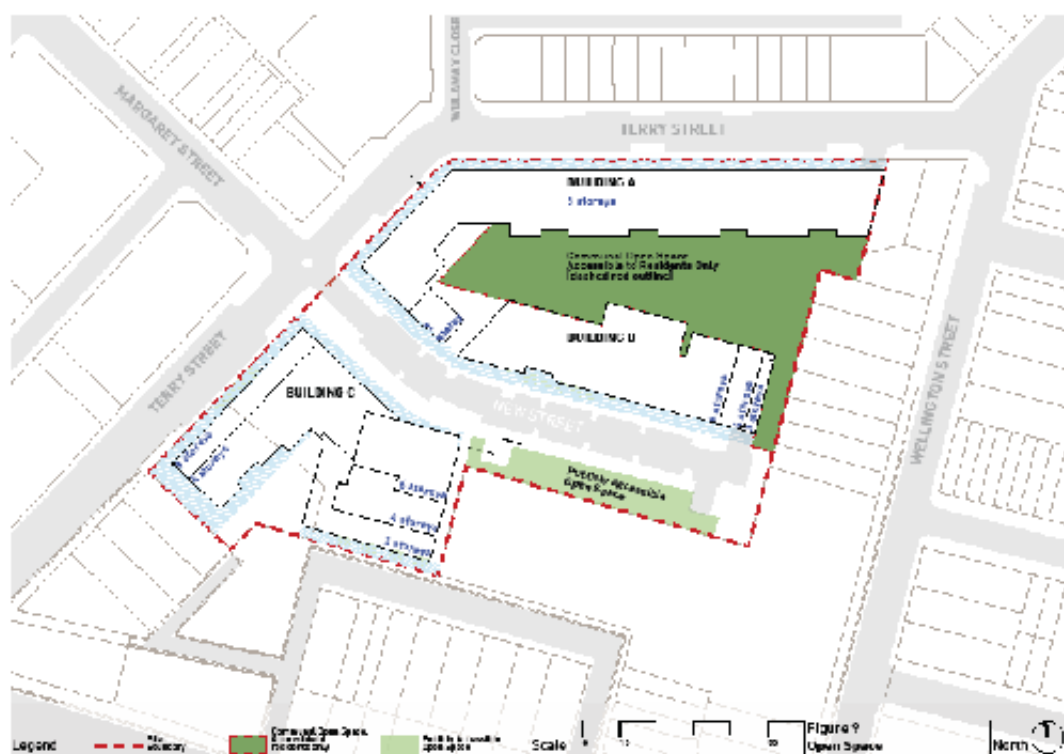
### D2.8.3 Open Space

#### Objectives

- a. To ensure that areas of open space are allocated for the communal use of residents of the site for relaxation and recreation.

#### Controls

- i. Open space is to be provided in accordance with Figure 9: Open Space.
- ii. A minimum of 2000sqm of communal open space should be provided in accordance with Figure 9 or as approved by Council.
- iii. A minimum of 2,690sqm of open space is to be provided between the northern building (Building A) which fronts Terry Street and the building which fronts the northern side of the new road (Building B), or as approved by Council.
- iv. Roof tops may be used as communal open space where there is minimal potential for visual and acoustic privacy impacts.
- v. The area on the southern side of the new street that is not intended to accommodate built form should be utilised for communal open space that is publicly accessible, or for the purpose of a shared or slow zone.



(Figure 9 of Site Specific DCP – Open Space requirements)

Comment: Open space has been provided on the site as per the above map. Furthermore, additional open space has been provided behind Building C, and on the roof of building A.



Figure 10 – Submitted landscape concept plan (note – area to west of Building C has since been amended to remove voids)

#### **D2.8.5 Visual Privacy**

##### **Objectives**

- a. To protect the visual privacy of adjoining dwellings by minimising direct overlooking of principle living areas and private open space.

##### **Controls**

- i. All development is to comply with the provisions contained in B3.3 of Leichhardt Development Control Plan 2000.
- ii. All buildings are to be designed to have no living rooms or balconies where the primary orientation is to the boundary with Wellington Street dwellings.
- iii. Any habitable rooms with windows facing the Wellington Street boundary which are capable of overlooking should be either 'highlight' windows or have fixed louvres which restrict overlooking of the adjoining properties (see Figure 11: View Protection: Wellington Street).
- iv. A 6m building setback plus associated deep soil planting is to be provided to the eastern boundary of Building B (as identified in Figure 11) to allow for the provision of significant tree planting.

Comment: The privacy and setback requirements of the above have been provided for in the submitted application. These will be further reinforced by conditions as necessary to ensure ongoing privacy protection.

#### **D2.8.6 Deep Soil Landscape Area**

##### **Objectives**

- a. To ensure that a suitable area of the site is used for open space including deep soil landscaping which will add to the amenity of the site and the public domain.

### **Controls**

- i. *A minimum of 2,000sqm of deep soil landscaping (ie with no structure below) is to be provided in accordance with Figure 10.*
- ii. *Private open space for each apartment is to be provided in accordance with Part B3.2 of the Leichhardt Development Control Plan 2000.*

Comment: Both these requirements have been satisfied.

## **D2.9 Parking and access**

### **D2.9.1 Parking rates**

#### **Objectives**

- a. *To provide an appropriate balance between encouraging use of public transport and increasing the demand for on-street parking in the area.*

#### **Controls**

- i. *Car parking is to be provided at the following rates to a maximum of 250 spaces:*
  - *Non-residential uses*
    - (i) *1 space/65sqm GFA*
  - *Residential uses:*
    - (i) *Studio/1 bedroom units - 1 space*
    - (ii) *2 bedroom units – 1 space*
    - (iii) *3+ bedroom units – 1.5 spaces.*
    - (iv) *Visitor spaces – 1 space/10 units.*
- ii. *All bicycle parking is to comply with the provisions contained in A8.0 of Leichhardt Development Control Plan 2000.*

Comment: On-site parking has been provided as per the above, and will be reinforced by condition as necessary.

### **D2.9.2 Vehicular access**

#### **Objectives**

- a. *To ensure that building vehicular access and egress points are best located to reduce potential for conflict, particularly in the areas where active non-residential frontages are proposed.*
- b. *To ensure that non-residential areas have adequate loading/unloading facilities.*

#### **Controls**

- i. *Vehicular access is to be generally in accordance with the locations shown on Figure 5: Neighbourhood Centre, Integration, Active frontages and vehicle access.*
- ii. *All building vehicular access and egress points are subject to final Council approval.*

*(and)*

### **D2.9.3 Car park entry design**

#### **Objectives**

- a. *To minimise the impacts of vehicular entry on the streetscape where possible.*

#### **Controls**

- i. *Vehicular entries are to be designed to minimise the visibility of garage doors on the street. This should be achieved through providing parking below ground level and setting doors back from the street boundary and building edge.*
- ii. *Where service vehicles require access at or above ground level, other methods are to be employed to reduce the visual impact of parking access.*

Comment: Council is satisfied that both above requirements relating to vehicle access and carpark entries have been largely complied with (the entry to the basement under Building C will require minor modification to comply with advice issued by the R.M.S.)

### **D2.10 Environmental performance**

#### **D2.10.1 Sustainability rating**

##### **Objectives**

- a. *To ensure that a high level of sustainability is achieved by requiring a higher standard to be achieved than would typically apply to such development.*

##### **Controls**

- *The environmental performance and any development of the site must consider the following matters:*
- *Energy: demand reduction, use efficiency, and generation*
- *Water: reduction in potable water use, water reuse and use of other water sources*
- *Management: sustainable development principles throughout the life of the project*
- *Indoor Air Quality: enhanced building performance and wellbeing of occupants*
- *Transport: reduction in demand for private car usage and encouraging alternative forms transportation*
- *Building Materials: reduction resource consumption through material selection, reuse and management practices*
- *Land use and Ecology: reduction in the impact on the ecosystem*
- *Emissions: mitigating point source pollution from buildings & building services to the atmosphere, watercourse, and local ecosystems*
- *Innovation: pursuing innovation that fosters the industry's transition to a more sustainable building as specified by the Green Star Rating System.*

Comment: The designs have progressed since preliminary discussions during formulation of the planning proposal and the development is now targeting 62 Green Star points under the Multi-unit Residential version 1 (v1) tool, which is equivalent to a 5 Star Green Star rating. The cut off between 4 and 5 stars is 60 points. In addition to the 62 points currently targeted, another 6.5 Green Star points are under review.

The achievement of a 5 star GreenStar rating would represent 'Australian Excellence' in Multi-Unit residential design. The final rating will be dependent upon the Green Building Council of Australia assessment of submission. Further points being targeted are pending detailed design and further verification modelling. Council Officers will maintain contact with ANKA to monitor progress with achieving their GreenStar rating. A condition of consent requires compliance with the recommendations of the ESD report submitted with the development application, and provision of a report at the completion of works, demonstrating what GreenStar rating has been achieved by the development.

#### **D2.10.2 Active Transport**

##### **Objectives**

- a. *To encourage use of active transport including public transport, cycling and walking.*

##### **Controls**

- i. *A Travel Access Guide will be required to be available to residents and non-residential tenants of the development and approved by Council prior to occupation.*

Comment: Noted. This is required prior to occupation and will be reinforced by condition.

#### **D2.10.3 Drainage and Water Management**

##### **Objectives**

- a. *To integrate water sensitive urban design into the development to reduce peak stormwater flows downstream, minimise transport of pollutants into waterways and maximise water recycling.*

##### **Controls**

- i. *Stormwater Drainage System: must be designed to Council's satisfaction and when installed must cater for the full length of the new road. It must be also be connected to the Council drainage system in Terry Street and include any upgrade to that system that is necessary to ensure no adverse impact that might be caused by that connection.*
- ii. *Future development: the design of the drainage system will be required to accommodate extension of the drainage system from Wellington Street and uphill lands when the road is extended.*
- iii. *Any development of the site must also consider the following matters:*
  - *Water: reduction in potable water use, water reuse and use of other water sources*
  - *Land use and Ecology: reduction in the impact on the ecosystem*
  - *Emissions: mitigating point source pollution from buildings & building services to the atmosphere, watercourse, and local ecosystems*
  - *Innovation: pursuing innovation that fosters the industry's transition to a more sustainable building as specified by the Green Star Rating System.*

Comment: Council is satisfied with the proposed stormwater management, subject to conditions.

## **D2.11 Waste and recyclable materials storage and disposal**

### **D2.11.1 Waste and recyclable materials temporary storage and disposal facilities**

#### **Objectives**

- a. *To ensure that adequate on-site provision is made for the temporary storage and disposal of waste and recyclable materials.*
- b. *To ensure that opportunities to maximise source separation and recovery of recyclables are integrated into the development.*
- c. *To minimise risk to health and safety associated with handling and disposal of waste and recycled material and the potential for adverse environmental impacts associated with waste management.*

#### **Controls**

- i. *Facilities required for the management, temporary storage, loading and unloading of waste and recyclable materials are to be provided wholly within the development.*
- ii. *Waste management and storage areas are to be located, designed and constructed to ensure integration into the streetscape on Terry Street and the new street.*
- iii. *A completed Site Waste Minimisation and Management Plan (SWMMP) must accompany any development application.*

Comment: Council requires further resolution of the Waste Management facilities on site. This includes relocating the at-grade bin store between Buildings A and B, in order to provide for safe and resident-friendly collection, which does not compromise the amenity of surrounding units or interfere with pedestrian movements along the footpath. This is addressed by way of a deferred commencement condition.

#### Leichhardt Development Control Plan 2000 (Residential and Non-residential)

The development has been assessed having regard to the following clauses of DCP 2000, noting that a number of these have been superseded by the site specific DCP controls assessed earlier in this report.

- Part A2.0 – Urban framework plans
- Part A3.0 – Principles of ecologically sustainable development
- Part A3a.0 – Sustainable water and risk management
- Part A4.0 – Urban form and design
- Part A5.0 – Amenity
- Part A6.0 – Site analysis
- Part A7.0 – Heritage conservation
- Part A8.0 – Parking standards & controls
- Part A9.0 – Advertising & signage
- Part A9a.0 – Colours & tones
- Part B1.1 – Demolition, site layout, subdivision and design
- Part B1.2 – Building Form, Envelope and Siting
- Part B1.3 – Car parking
- Part B1.4 – Site drainage and stormwater control
- Part B1.5 – Elevation and materials
- Part B1.6 - Front gardens and Dwelling Entries



- Part B1.7 – Fences
- Part B1.8 – Site facilities
- Part B1.9 – Corner site controls
- Part B2.8 – Landscaping
- Part B3.1 – Solar Access
- Part B3.2 – Private open space
- Part B3.3 – Visual privacy
- Part B3.4 – Access to views
- Part B3.5 – Acoustic privacy
- Part B4.7 – Diverse & affordable housing
- Part C1.1 – Site layout & building design
- Part C1.2 – Parking layout, servicing & manoeuvring
- Part C1.3 – Landscaping
- Part C1.4 – Elevation & materials
- Part C1.5 – Site facilities
- Part C1.6 – Shopfronts
- Part C1.7 – Protective structures in the public domain
- Part C2.1 – Site drainage & stormwater control
- Part C2.2 – Energy efficient siting & layout
- Part C2.3 – Building construction – mass & materials
- Part C2.4 – Solar control
- Part C2.5 – Insulation
- Part C2.6 – Ventilation
- Part C2.7 – Space heating & cooling
- Part C2.8 – Using solar energy
- Part C2.9 – Appliances & equipment
- Part C3.1 – Noise & vibration generation
- Part C3.2 – Air pollution
- Part C3.3 – Water pollution
- Part C3.4 – Working hours
- Part C4.1 – Home based employment

Generally, the provisions of DCP 2000 have been superseded by the site specific controls of the DCP amendment, or, as with Part C4.2, are not applicable to the development site.

#### Leichhardt Development Control Plan No. 32 – Design for Equity of Access

With respect to access, the Building Code of Australia, Clause D3.2 requires:

- a) *an accessway must be provided to a building required to be accessible:*
- (i) *from the main points of pedestrian entry at the allotment boundary; and*
  - (ii) *from another accessible building connected by an accessible link.*

The intent is for persons with a disability (including visitors) to be able to travel via a continuous accessway between buildings and public areas. Council raises no objections to the proposal proceeding on the basis that a condition be imposed requiring that final details be provided with the Construction Certificate, detailing compliance with Part D of the Building Code of Australia, AS1428.1 and the

Disability (Access to Premises-Buildings ) Standard 2010, including relating to Braille & tactile design, signage, access, finishes and fittings, including passageways, ramps, step ramps or kerb ramps, signs, doorways and other parts of the building.

Disabled parking is provided in accordance with the DCP and will be reinforced via appropriate conditions, particularly in light of the fact that some design amendments to the on-site car parking provision were required as previously noted. An Access Mobility report was submitted with the development application, and the recommendations of that report are incorporated into the conditions of approval.

The proposal as recommended will comply with the provisions of this part of the Plan.

#### Leichhardt Development Control Plan No. 38 – Waste

The amended proposal was considered by Council and it advised that there are no objections in principle, provided that the bin storage area adjacent to Buildings A and B is relocated closer to New Street, and enclosed, and accommodated in such a way that a garbage truck can back up to the bin store in order to collect bins. Otherwise the bins would have to be moved out onto the footpath of New Street for collection. Given the number of bins involved this would be a safety and visual nuisance, and the length of collection needed would result in a major sleep disturbance for surrounding units. These issues can be avoided by having an enclosed store between Building B and the shops, setback a sufficient distance to allow a garbage truck to back up to the storage area. The dimensions of the garbage truck are:

- 8.4 m long;
- 2.5 m wide; and
- 4.5 high.

The applicant has agreed in principle, however submitted amended plans do not show the bin store being relocated to the area nominated by Council. The applicant has suggested that Council's nominated position would interfere with the overland flow path. Council's stormwater engineer has examined this concern and is of the opinion that the overland flow path would continue to work satisfactorily, with a garbage truck stand area able to be accommodated, as per the schematic footprint attached to the conditions of this application (see separate document).

It is also noted that food rubbish bins need to be accommodated, Council's Waste Manager has advised as follows:

*It was explained at the meeting with ANKA representatives that the food collection is a system that Council is pursuing and it is not in the DCP. The existing service for multi unit dwellings only required a swap of a garbage bin for a food waste bin and it was also noted that to my knowledge none of the existing MUD's have garbage chutes.*

*If the applicant still proposes the garbage chutes there has to be a provision for a food bin on each residential floor. All the recycling bins (commingled containers, paper & cardboard and food organics) are a priority to ensure that all materials that can be recycled are removed from the waste stream. If these bins are not provided on each floor there may be a tendency for residents to simply put all the waste into*

*the garbage chute. The system has to be easily accessible to the residents to be successful.*

*Given the inference to the GFA / FSR implications, the possible solution is:*

*1. Utilise smaller bins and manage on a daily basis, I.E. 80 or 120 litre bins and these be emptied into larger 240 litre bins in the bin storage area on ground / basement floor for collection by council on the normal collection day. This will not require any additional area than 2 x 240 litre bins which is already accommodate in each bin storage area.*

*There needs to be a condition stating the above to accommodate all recycling bins on each floor of the residential areas.*

#### **(a)(iv) Environmental Planning and Assessment Regulation 2000**

The Development Application has been assessed against the relevant clauses of the Environmental Planning and Assessment Regulation 2000. The Development Application fully complies with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

Clause 92(1)(b) of the Regulation Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. The demolition of the existing structures is to be carried out in accordance with a construction/demolition management plan, which is to be submitted prior to the issue of a Construction Certificate. Conditions to this effect are included in the recommendation section of this report.

#### **(b) The likely environmental both natural and built environment, social and economic impacts in the locality**

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have acceptable impact in the locality, commensurate with the implicit and explicit expectations of the LEP and DCP.

#### **(c) The suitability of the site for the development**

The site is zoned Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

#### **(d) Any submissions made in accordance with the Act or the regulations**

The Development Application was notified for a period of 30 days. The notification period was from 28th September 2012 to 29th October 2012.

The notification of the application included:

- Letters sent to 5693 properties.
- A yellow site notice placed on the site.
- Listing under the notification section on Council's website.

Nineteen submissions were received during the advertising period, including one letter in full support, and another submission generally supportive with qualifications regarding parking. The objections letters have largely raised the same concerns. Council has copies the most detailed references in regard to common areas of concern raised by neighbours, for specific response, as following.

The following information is provided in response to the issues raised in the objections.

*I am objecting to the approval of the above development plan based on the lack of accessible roads into and away from the proposed property. From the plan provided a new street is planned to connect at the juncture of Margaret Street. Given Margaret Street is the ONLY arterial road Balmain Shores residents use to access the main traffic, one could foresee with the additional 202 apartments using this same accessible road will be chaotic at the roundabout during peak times of the day. The proposed property should plan at least two thoroughfare into Terry Street and Crystal Street, these will alleviate the traffic congestion created at the juncture of Margaret Street.*

Comment: The development is fully compliant with the access arrangements envisaged by the DCP. Vehicle access from the basement carpark/s into Crystal St is not considered appropriate, as Crystal Street has limited ingress and egress, and is a very narrow street of between 6.4m and 12m, as opposed to Terry St which is approximately 19m wide.

*We are in qualified support of the proposal but with NO parking provided for unit owners, and 50 car spaces provided for commercial.*

Comment: The site specific DCP nominates parking requirements for the development. The proposal is fully compliant in this regard.

***Traffic congestion:***

*Currently, traffic congestion and noise on and around Terry St is very disruptive. With all traffic heading to Birchgrove and the northern end of Rozelle already entering the peninsula via the single-lane Terry St (we hear it all first-hand, given our front door and children's bedrooms face onto Terry St), adding an additional 250 cars + visitors without any planned additional direct access to Victoria Rd will only increase the congestion and traffic for local residents. Especially given that currently the only way to go Northbound on Victoria Rd is via the predominantly one-lane Wellington St, we anticipate that the proposed development will increase traffic heading up Terry St and around the roundabout onto Wellington St in the critical morning and evening commute times.*

*Our suggestion to ease this involves 5 parts:*

- \* Reducing the number of proposed units/bedrooms to be built in the new development (ie. reduce incremental cars)*
- \* Require additional access to the proposed development via Wellington St and Crystal St (ie. spread new traffic across multiple roads)*
- \* Introduce traffic lights and pedestrian crossings at Margaret St and Wulumay Close (ie. ensures traffic from Balmain Shores and Balmain Cove do not have to continually give way to incremental traffic from new development and enables pedestrians to safely cross heavy traffic areas)*

*\* Allow right turn at Terry St onto Victoria Rd (ie. diverts Northbound traffic for Balmain Shores, Balmain Cove and the new development down Terry St instead of Wellington St)*

*\* Eliminate existing parking at the end of Terry St and/or Wellington St (ie. enable more lane space for turning cars to reduce congestion)*

Comment: Traffic arrangements for the development have been identified after much discussion, and bearing in mind other anticipated development including Rozelle Village. All proposed (and adopted) traffic arrangements have been the subject of intensive consultation with the local community, and with the RMS. A number of measures identified above can only be carried out with the approval of the RMS, which has not been obtained.

***Public parking:***

*Currently, public parking is very limited in and around Terry St. While we are fortunate enough to have parking space on our property for our own vehicle, our guests often have to park several blocks away in order to find a legitimate carspace. With an incremental 202 units proposed with no additional visitor parking and only 250 parking spaces, it is highly likely that the new development will eat into existing parking spaces, either for residents themselves with more than the allotted cars or for residents' guests.*

*Our suggestion to ease this involves 3 parts:*

*\* Reducing the number of proposed units/bedrooms to be built in the new development (ie. reduce incremental cars)*

*\* Increase space allocated to parking in the new development, with certain spaces marked specifically for guest and/or public parking (ie. reduce burden from new tenants and their guests on existing parking spaces)*

*\* Increase dedicated council public parking spaces in the area (ie. increase overall parking capacity)*

Comment: It is not the case that the development fails to provide parking for visitors. The site specific DCP requires twenty visitor spaces, and these have been provided. There will also be eighteen spaces provided on New Road, and approximately fifteen additional car spaces along Terry St, as a consequence of changes to kerb and guttering and traffic calming measures. This means that within the immediate vicinity of Balmain Shores and Balmain Cove an additional thirty three on-street parking spaces are anticipated post-completion of the development, available to the general public.

***Large Exhaust Vents/Voids over the Dock Entry and Garbage Area.***

*There are now many exhaust shafts proposed, adjacent to our (126 Terry St) opening windows, light well and back terrace garden. Just below these proposed voids/vents, the developer has shown a very large garbage bin handling and storage area, plus loading dock. These shafts would subject us to unacceptable noise and fumes from the vehicles using the dock entry and the handling of garbage bins. Also the constant smell from the garbage bins.*

Comment: The amended plans have deleted all the formerly proposed voids over this area (adjacent to 126 Terry St) and replaced them with landscaping.

*The stairs and pathway indicated would be adjacent to our windows and rear terrace and would give someone easy access to illegally enter our property and therefore a security risk for our home. Also; the stairs, being so close to our living area, would compromise our privacy and subject us to noise, as they allow pedestrians to walk close to our side boundary, at our first floor level.*

A hand-drawn floor plan of a building, likely a school or institutional structure, showing various rooms and their dimensions. The plan is oriented with a north arrow pointing towards the top right.

**Rooms and Dimensions:**

- OFFICE:** Located in the center-right, measuring 20' x 20'.
- STAIR:** A central staircase area.
- TEA:** Two tea rooms, one on the left and one on the right of the stair.
- VOIC:** A room at the bottom center, measuring 10' x 10'.
- Other rooms:** Several smaller rooms and corridors are shown, with dimensions such as 10' x 10', 10' x 15', 10' x 20', 10' x 25', 10' x 30', 10' x 35', 10' x 40', 10' x 45', 10' x 50', 10' x 55', 10' x 60', 10' x 65', 10' x 70', 10' x 75', 10' x 80', 10' x 85', 10' x 90', 10' x 95', 10' x 100', 10' x 105', 10' x 110', 10' x 115', 10' x 120', 10' x 125', 10' x 130', 10' x 135', 10' x 140', 10' x 145', 10' x 150', 10' x 155', 10' x 160', 10' x 165', 10' x 170', 10' x 175', 10' x 180', 10' x 185', 10' x 190', 10' x 195', 10' x 200', 10' x 205', 10' x 210', 10' x 215', 10' x 220', 10' x 225', 10' x 230', 10' x 235', 10' x 240', 10' x 245', 10' x 250', 10' x 255', 10' x 260', 10' x 265', 10' x 270', 10' x 275', 10' x 280', 10' x 285', 10' x 290', 10' x 295', 10' x 300', 10' x 305', 10' x 310', 10' x 315', 10' x 320', 10' x 325', 10' x 330', 10' x 335', 10' x 340', 10' x 345', 10' x 350', 10' x 355', 10' x 360', 10' x 365', 10' x 370', 10' x 375', 10' x 380', 10' x 385', 10' x 390', 10' x 395', 10' x 400', 10' x 405', 10' x 410', 10' x 415', 10' x 420', 10' x 425', 10' x 430', 10' x 435', 10' x 440', 10' x 445', 10' x 450', 10' x 455', 10' x 460', 10' x 465', 10' x 470', 10' x 475', 10' x 480', 10' x 485', 10' x 490', 10' x 495', 10' x 500', 10' x 505', 10' x 510', 10' x 515', 10' x 520', 10' x 525', 10' x 530', 10' x 535', 10' x 540', 10' x 545', 10' x 550', 10' x 555', 10' x 560', 10' x 565', 10' x 570', 10' x 575', 10' x 580', 10' x 585', 10' x 590', 10' x 595', 10' x 600', 10' x 605', 10' x 610', 10' x 615', 10' x 620', 10' x 625', 10' x 630', 10' x 635', 10' x 640', 10' x 645', 10' x 650', 10' x 655', 10' x 660', 10' x 665', 10' x 670', 10' x 675', 10' x 680', 10' x 685', 10' x 690', 10' x 695', 10' x 700', 10' x 705', 10' x 710', 10' x 715', 10' x 720', 10' x 725', 10' x 730', 10' x 735', 10' x 740', 10' x 745', 10' x 750', 10' x 755', 10' x 760', 10' x 765', 10' x 770', 10' x 775', 10' x 780', 10' x 785', 10' x 790', 10' x 795', 10' x 800', 10' x 805', 10' x 810', 10' x 815', 10' x 820', 10' x 825', 10' x 830', 10' x 835', 10' x 840', 10' x 845', 10' x 850', 10' x 855', 10' x 860', 10' x 865', 10' x 870', 10' x 875', 10' x 880', 10' x 885', 10' x 890', 10' x 895', 10' x 900', 10' x 905', 10' x 910', 10' x 915', 10' x 920', 10' x 925', 10' x 930', 10' x 935', 10' x 940', 10' x 945', 10' x 950', 10' x 955', 10' x 960', 10' x 965', 10' x 970', 10' x 975', 10' x 980', 10' x 985', 10' x 990', 10' x 995', 10' x 1000', 10' x 1005', 10' x 1010', 10' x 1015', 10' x 1020', 10' x 1025', 10' x 1030', 10' x 1035', 10' x 1040', 10' x 1045', 10' x 1050', 10' x 1055', 10' x 1060', 10' x 1065', 10' x 1070', 10' x 1075', 10' x 1080', 10' x 1085', 10' x 1090', 10' x 1095', 10' x 1100', 10' x 1105', 10' x 1110', 10' x 1115', 10' x 1120', 10' x 1125', 10' x 1130', 10' x 1135', 10' x 1140', 10' x 1145', 10' x 1150', 10' x 1155', 10' x 1160', 10' x 1165', 10' x 1170', 10' x 1175', 10' x 1180', 10' x 1185', 10' x 1190', 10' x 1195', 10' x 1200', 10' x 1205', 10' x 1210', 10' x 1215', 10' x 1220', 10' x 1225', 10' x 1230', 10' x 1235', 10' x 1240', 10' x 1245', 10' x 1250', 10' x 1255', 10' x 1260', 10' x 1265', 10' x 1270', 10' x 1275', 10' x 1280', 10' x 1285', 10' x 1290', 10' x 1295', 10' x 1300', 10' x 1305', 10' x 1310', 10' x 1315', 10' x 1320', 10' x 1325', 10' x 1330', 10' x 1335', 10' x 1340', 10' x 1345', 10' x 1350', 10' x 1355', 10' x 1360', 10' x 1365', 10' x 1370', 10' x 1375', 10' x 1380', 10' x 1385', 10' x 1390', 10' x 1395', 10' x 1400', 10' x 1405', 10' x 1410', 10' x 1415', 10' x 1420', 10' x 1425', 10' x 1430', 10' x 1435', 10' x 1440', 10' x 1445', 10' x 1450', 10' x 1455', 10' x 1460', 10' x 1465', 10' x 1470', 10' x 1475', 10' x 1480', 10' x 1485', 10' x 1490', 10' x 1495', 10' x 1500', 10' x 1505', 10' x 1510', 10' x 1515', 10' x 1520', 10' x 1525', 10' x 1530', 10' x 1535', 10' x 1540', 10' x 1545', 10' x 1550', 10' x 1555', 10' x 1560', 10' x 1565', 10' x 1570', 10' x 1575', 10' x 1580', 10' x 1585', 10' x 1590', 10' x 1595', 10' x 1600', 10' x 1605', 10' x 1610', 10' x 1615', 10' x 1620', 10' x 1625', 10' x 1630', 10' x 1635', 10' x 1640', 10' x 1645', 10' x 1650', 10' x 1655', 10' x 1660', 10' x 1665', 10' x 1670', 10' x 1675', 10' x 1680', 10' x 1685', 10' x 1690', 10' x 1695', 10' x 1700', 10' x 1705', 10' x 1710', 10' x 1715', 10' x 1720', 10' x 1725', 10' x 1730', 10' x 1735', 10' x 1740', 10' x 1745', 10' x 1750', 10' x 1755', 10' x 1760', 10' x 1765', 10' x 1770', 10' x 1775', 10' x 1780', 10' x 1785', 10' x 1790', 10' x 1795', 10' x 1800', 10' x 1805', 10' x 1810', 10' x 1815', 10' x 1820', 10' x 1825', 10' x 1830', 10' x 1835', 10' x 1840', 10' x 1845', 10' x 1850', 10' x 1855', 10' x 1860', 10' x 1865', 10' x 1870', 10' x

The relative levels on the site adjacent to the wall of 126 Terry St suggest that the site levels would be raised in this location to a point higher than the boundary opening.

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height of the development alongside and adjacent to 126 Terry Street is 2.88m approximately.

It is not possible to eliminate the proposed works at this location without substantial redesign, as the works constitute the loading dock and basement carparking for Building C, and are constructed hard up to the side boundary. The side opening (light well), wall, and rear courtyard area are shown in the photo below. Whilst the wall of the development would infill the lower 1.0m of the lightwell, it would still leave most of the lightwell open, and it would still function as a lightwell. To address the issue of additional impact from fencing it is recommended that any fence alongside the lightwell be a palisade style open metal railings security fence, such as that seen on the perimeter of Balmain High School, with privacy provided for by substantive planting. It is also noted that this area is not a pedestrian thoroughfare, as there is no access down to Terry St. The pedestrian use at this area will largely be restricted to fire escape and maintenance, thus mitigating privacy impacts.



*(Side lightwell viewed from development site – located directly under blue verandah)*





*(Rear commercial level courtyard with curved metal pergola roof over – rear 126 Terry Street)*

*Large plant rooms are now shown, once again within a couple of metres of our opening windows, light well and back garden terrace. This is unacceptable to us on grounds of the noise and emissions they would produce. It appears that this area on the southern boundary of the proposed development is very different to what was shown in the previous plans exhibited by Council. At one stage this area was to be a 6 metre wide public walkway, linking with other pedestrian access paths to the waterfront park. It then became a landscaped roof garden over a Dock Entry. It is now a mass of exhaust vents, plant rooms and access stairs.*

*I strongly request that appropriate consideration be given to the adverse consequences this current D.A. would have for us. That amendments be made to the design of the proposed area over the Dock Entry, in accordance with Council's Development Control Plan, that states in section D2.5*

*'Aims And Objectives':*

*... protect and enhance the residential amenity of dwellings in and adjoining the Neighbourhood What is currently proposed would seriously and adversely affect our 'residential amenity'. I believe rectification should be made to the proposal; the developer required to amend the design of this area and reinstate landscaping as previously shown. For the Dock Entry to be a single storey structure; with substantial roof-top planting, no exhaust vents, no plant rooms, no garbage storage and no access stairs, which are currently shown as being adjacent to our living spaces. I would request that Council acknowledge receipt of this submission and keep me informed as to how the matters I raise relating to my objections to the current design are to be addressed and amended.*

Comment: Whilst not specifically shown in the planning proposal drawings, this is not an unusual omission. Developments of this nature will have fire stairs, and plant rooms. It is considered that sufficient protection exists under the Protection of the Environment Operations Act to manage any noise or odour issues. In this regard it is noted that when the apartment at 126 Terry Street was constructed, the development site was zoned for and used as a large industrial property, with noise



and odour potential anticipated to have been significantly more likely than that associated with residential development.

*I am a supporter of this development but one part that I do believe needs to be addressed is the proposed carpark access on Terry street*

*Major reasons for my concerns about this carpark entrance are*

- 1. Cars trying to turn right into this carpark coming from Victoria road*
- 2. Properties that are directly opposite this carpark entrance and the affect it will have on them (headlights at night), particularly cars coming out of this carpark.*

Comment: The RMS has required that right hand turns into Building C carpark be restricted.

The entry ramp for this carpark slopes down from the interior of the carpark to the street. This means that when cars leave the carpark their headlights will be pointing down towards the street surface rather than up towards the windows of the units opposite. Notwithstanding this, it is considered that occasional light spill from cars entering or existing carparks in built up areas which accommodate unit developments is not unusual and is to be expected as part of multi-density living.

*The height of the buildings are completely out of character for Rozelle*

Comment: The height is as nominated in the site specific controls.

*The retail will snuff out our local shops.*

Comment: The quantum of business premises is only 1300sqm and is consistent with the adopted planning controls.

*Parking of personal vehicles of builders and trade persons working on the site during the construction phase.*

*We live in a small no parking street close to the ANKA site. Unless provisions are made for all vehicles of people working on site to be parked on site we are concerned that they may park illegally in our street and surrounding streets.*

*We request that council include as a building condition a recommendation that provision be made for all builders and trades persons vehicles to be parked on site at all times.*

Comment: A construction management plan will be required as part of the construction process. Nothing in that plan can give workers the right to park illegally. There is ample scope within the site to accommodate worker parking, particularly as the developer has indicated it is his intention to construct in stages. A suitable condition of consent is therefore recommended.

*The construction phase will be very noisy and dirty for surrounding residents. Terry Street is a busy street, particularly at peak hour with peninsula vehicles using it as an access point to Victoria Rd. There are also two schools close by with a lot of pedestrian traffic. Building during peak hours will need to be managed so that the streets are not blocked to through traffic. We request that council include as a building condition hours of operation of 7 am until 6 pm on week days with no*

*building taking place on week-ends. We also request that residents be provided with a business and after hours phone number of a contact person who can take action if any of the construction conditions are violated.*

Comment: Council's standard condition of consent relating to working hours will be imposed. A condition will also be imposed requiring contact details to be made available for local residents. Council and/or the PCA remain the authority should works take place out of stipulated hours, or otherwise be in breach of any conditions of consent.

*We would like to formally raise objections to the above development application (DA) on the following grounds;*

*1. Use of the term 'future road' 'future road extension' or any other term and/or diagram that would indicate a road connecting between Margaret Street and Merton Street is to be constructed. It was agreed during the council meeting of 19/04/2011 (refer page 17 Ordinary minutes) that any terms referring to a 'future road' connecting Merton Street and Margaret Street would be abandoned since there is no such road in place, and the 'new road' would be referred to as a 'cul-de-sac'. The council and DA applicant have contradicted this endorsement by not referencing the road as a 'cul-de-sac' in the VPA (refer Part 1, page 8), and by including text and diagrams that reference a 'future road' in the DA;*

Comment: · The minutes of the Ordinary Council meeting of 19 April 2011 do not actually state that references to “future road” or similar nomenclature would be abandoned. The Minutes state as follows:

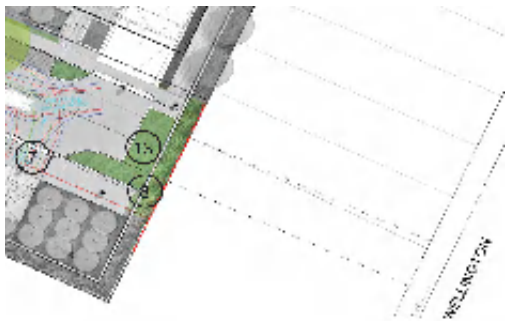
*A notation being placed on the plan that the new street will not be the subject of compulsory acquisition and will remain as a cul de sac until the adjoining land is developed.*

*Provision and facilitation of pedestrian and cycle access through the site to Merton Street. The DA mentions that it will provide and facilitate access through the site for pedestrians and cycles to Merton Street, however the plans do not adequately show how this access will be provided -refer Statement of Environmental Effects section 6 'Evaluation under Section 79C', part 6.2.1 (e), 6.3.1 (e). We would assume that this access would be along the side of our property, and we believe this would breach our privacy, reduce our personal security, and cause invasive noise disturbances.*

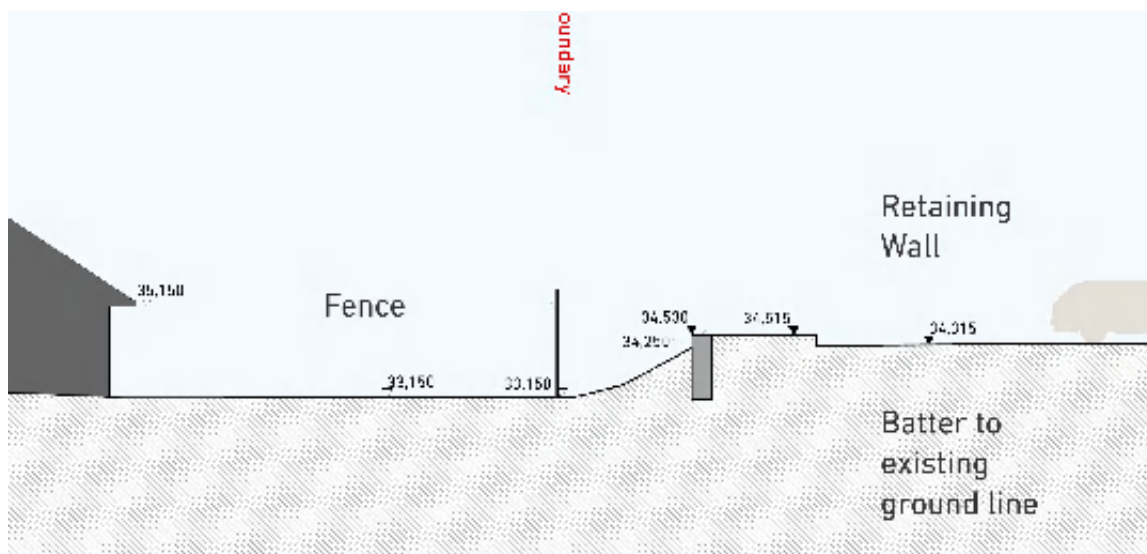
Comment: The submitted plans provide for and facilitate future access to Merton St, which would involve a continuation of New Road through to Merton via one or more Wellington St property. This is a future intent, and the DA is simply required to allow for it in the road design. This has been achieved. No connection past the objectors property is proposed as part of the DA.

*Landscaping at the rear of our property has not been planned for or included in the DA due to preparation for the 'future road' (refer Landscape Plans page 2, point 8 and page 5, point 18). Landscaping must be completed based on the usage and requirements of the site for the DA as it stands and not based on some future master plan that may never come to fruition. This includes adequate fencing and mature planting to protect the privacy at the rear of our property.*

Comment: The submitted landscape plans show “13 - temporary landscaping pending future road works” in this location, as below



Council recommends that the landscape planting and fencing in this location be sufficient to protect the privacy and security of the residents of the adjoining Wellington St properties, due to the proposed levels and change in nature of use of this area (see figure below for demonstration – the fence measures at 2.4m high however notwithstanding this a 1600mm eye height from a person standing at the end of New Road would allow viewlines into the rear of the neighbours building).



*(Section indicating levels relationship between New Road and 11A Wellington Street)*

A suitable condition is therefore recommended to require landscaping between the retaining wall and the fence line.

*We currently do not experience any drainage issues at the rear of our property, even during heavy rainfall all water is successfully diverted away from our house. The above DA includes a retaining wall that will be built close to the boundary at the back of our property. We are concerned that with the footings for this wall in place there will be inadequate drainage between the retaining wall and our property, resulting in an overflow of water back in to our garden and towards our house causing flooding/property damage.*

Comment: Substantial drainage management measures will be implemented across the site, and these have been analysed and accepted by Council's Drainage Engineers. Notwithstanding, a condition will be included to ensure that stormwaters are not directed onto any adjoining properties.

*Noise, pollution, and disturbance created by vehicle turning bay. We are concerned that the proposed turning bay will cause significant disturbance in terms of noise and pollution.*

Comment: The proposed turning bay will be separated from the adjoining property by a landscape buffer. Furthermore, the bay services only a limited amount of the traffic accessing the property, being retail visitors and occasional trucks – it does not, for example, service the basement carpark.

*Approval of future Development Applications for 11a Wellington Street, Rozelle*  
*We have been informed by a council employee that we are unlikely to have any development applications we submit to council approved because of the councils master plan to implement a connecting road between Merton Street and Margaret Street. We believe this is a deliberate attempt to significantly devalue our property, and also make it harder to sell our property so that the council can implement their master plan. We would appreciate if council could instruct both their employees and ANKA Development to cease referring to this 'future road' as though it is a certainty.*

Comment: The advice given by Council staff was that it would be premature to lodge a development application seeking vehicle access/parking to the rear of No.11a Wellington St off New Road, until such time as New Road was much further advanced than simply a development application under assessment. Any application for 11a Wellington St would be assessed on its merits and pursuant to the relevant planning controls.

*The Joint Regional Planning Panel must consider this ANKA Development Application in the light of the full range of other development projects directly impacting on the Balmain Peninsular. These include the proposals for the Nutrimerics site, the redevelopment of the White Bay Power Station, the Overseas Passenger Terminal and the extra ordinary proposals concerning the Tigers site. Unless all of these proposals are considered there is no point at all in having a Regional Planning Panel*

Comment: Noted.

*A major concern is traffic flow. It is increasingly difficult to either get into, or out of, the Peninsular at any time of day. However the peak hour traffic congestion in the morning and evening along Terry Street, Wellington St, Darling St, Evans Rd and Mullens Road should be a matter of real concern to Council and the JRPP. There are of course daily fluctuations but the overall picture is one of a grossly inefficient traffic flow that is economically and environmentally costly and damaging. Traffic and parking within the peninsular itself has either exceeded capacity or is soon to do so.*

*In relation to the ANKA DA the provision of additional residential units but then restricting for a lesser number of cars will be counterproductive to the parking problem. People will not decide that it is better not to own and operate a car. The Traffic budget assumptions that provision of fewer parking spaces will drive a change*

*to increased use of public transport is a pious hope ... but not at all realistic. So where will the inevitable overflow of cars from the ANKA Development actually park.? The only alternative is to park in surrounding streets to the detriment of the amenity of all existing residents and all users of the peninsular road network. I ask that the parking allocation requirements for this development be reconsidered.*

Comment: Maximum carparking for the development has already been imposed, and the proposal provides for carparking to this maximum (250 vehicles).

*In regard to the development application 0/2012/429 - 118-124 Terry Street, Rozelle Public School P&C Association wish to provide details of our concerns in relation to this development and the possible effect on the health, safety-and welfare of the students at Rozelle Public School and in particular the preschool which is located close to the development site. We are concerned with the methods proposed for demolition of the existing buildings and construction and there is little detail in the application as to how the work will be undertaken. We are concerned with the method of removal of the hazardous materials. We are concerned with noise and vibration affecting the school student's ability to engage properly in their education at an important phase of their life and the impact on the 4 year old pre-schoolers. The developer's application does not address issues relating to the effect of the demolition and construction on school or the preschool. .*

*Rozelle P.S. P&C is concerned with the effects of construction noise and vibration on the school. There is minimal information in the documentation and the noise and vibration from the site needs to be strictly controlled and limited. The limits noted in the development application are not acceptable. The pre-schoolers must be able to sleep as part of their daily learning routine. The proposed methods of excavation, piling and any other noise and vibration needs to be strictly limited in the approval document and ensure not only the safety of the students and pre-schoolers but also insure their ability to perform their educational requirements during the period of construction.*

*We propose that the developers undertake the following:-*

- Extensive air, noise and vibration monitoring of the area and within the school to ensure safe levels of dust, noise and vibration and airborne contaminants will not affect the school students and pre-schoolers.*
- The developers need to provide detailed methods of removal of contaminated materials during demolition.*
- All asbestos needs to be properly encapsulated, sprayed with PVA and removed by hand during the Christmas shutdown period. The process needs to be appropriately monitored by an expert at all times.*
- The developers should pay the costs for Rozelle Public School to provide an independent consultant to review and monitor and ensure the development follows best practice with the removal of hazardous material.*
- The developers should meet with Rozelle Public School on a regular basis before and during demolition and construction to communicate appropriate actions and the programme.*
- The methods of excavation need to meet the highest standards of noise and vibration levels.*
- Piling techniques need to be developed to reduce noise prior to consent by Council.*

- *If any procedure falls outside set limits the construction works should cease immediately until such time as the proper work method can be reinstated.*

Comment: Conditions have been imposed with regard to management of hazardous materials removal, and ongoing construction. The applicant has agreed to consult with the School body, and this too has been included in the conditions of consent.

*Since site has been left empty for a number of years, around 25 species of bird now reside at the site, along with an unknown number of other species. What assessment has been made to ensure that no endangered species are being disturbed?*

Comment: No endangered species have been identified on the site. It is noted that a consent currently exists that would have allowed the site to be developed for bulky goods retail.

*What measures are in place to ensure that residents do not suffer either noise or dust pollution during demolition and construction?*

Comment: Detailed construction management controls will be implemented pursuant to conditions of consent.

*Considering the age of the buildings on the site, does current construction plans take into account the asbestos removal?*

Comment: Yes. See conditions.

#### *Public Transport*

*Currently up to 5 buses, at a time, use the space opposite 35 Terry Street, between 7am-9am. What provision has been made to site these buses during construction and then post construction?*

*The buses at the Terry Street stop are already so full that in the morning, multiple buses pass the stop without stopping. What plans are in place to increase access to transport during key commuting hours?*

Comment: Management of State Transit buses is a matter for Sydney Buses.

*There is already a lack of parking in the area. The allocation and number of car parking spaces seems to be completely inadequate for the realistic number of cars that is going to occupy the site. Has any analysis been number on car ownership in Balmain Shores and Balmain Cove, as it seems to be more realistic to use these figures than an average for Leichhardt?*

*There are currently 3 major development applications in progress for Rozelle: the Tigers redevelopment, the Nutrimerics site and this development - all three applications are being treated separately, yet the impact of all 3 being approved will be enormous. Why aren't all 3 developments being looked at together?*

Comment: Because the three applications have been lodged at different times, and one, the Rozelle Village development, lies outside the jurisdiction of the JRPP. Notwithstanding this, the traffic implications of these three developments have been examined in a cumulative manner.

*Victoria Road is already the most congested road in Australia and yet this development will add another 200+ cars to the traffic. What plans have the Roads and Maritime Authority got to increase speed on the roads and relieve congestion caused by multiple developments?*

Comment: The traffic implications of the development have been accepted by the RMS. Any changes to Victoria Rd are the responsibility of the RMS.

*Traffic continues to speed along Terry Street and cut the corner near Wulumay Close - what plans are in place to increase traffic calming as part of this development?*

Comment: Council is requiring a roundabout at the intersection of Margaret St and New Street which will slow down traffic.

*The current plans completely dwarf the buildings on the opposite side of Terry Street and don't seem to take into account the 4m height difference between the two sides of the road. In addition, the current plans allow for a roof garden, meaning that residents of the development will be able to look down into all properties in Terry Street*

Comment: The height is as permitted by the site specific DCP.

*The area is already well served by existing commercial developments in and around Darling Street - my concern is that these commercial spaces will not be leased and quickly become an eye-sore.*

Comment: The economic analyses underlining the preparation of site specific planning controls indicates the shops will be lettable.

*I notice from the plans that there will be no trees between us and the new development. At present there are several trees opposite us including a very attractive pine tree so presumably these will all be removed to make way for the development. These trees currently provide a welcome habitat for many birds, and they also provide a screen between us and the unsightly warehouses on the proposed development site.*

Comment: The unsightly warehouses will be removed and replaced with architect designed apartments, shops and public domain, including new landscaping and tree species more suitable to the site.

#### **(e) The public interest**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

## 5. MONETARY CONTRIBUTIONS

Monetary contributions are payable for the proposal, and have been calculated as follows. It should be noted that the VPA exempts this development from the \$20 000 levy cap imposed per dwelling by the State Government, and therefore all calculations are based on the full spectrum of the applicable Section 94 plans, with no constraint.

Open Space Levy	\$3 784 428.93
Community Facilities levy	\$539 794.41
Transport & Access Levy	\$46 268.29
<b>TOTAL:</b>	<b>\$4 370 491.00</b>

Of the amount nominated above, a total of \$612 013 is payable for Affordable Housing, pursuant to the VPA. The VPA also requires a further contribution of \$270 000 for Affordable Housing, on top of the aforementioned.

## 6. INTERNAL REFERRALS

The Development Application was referred to the following Council Officers:

### Building

There are no matters pertinent to compliance with the Building Code of Australia other than those which can be met by suitable conditions.

### Engineering (Traffic and Stormwater)

#### *Terry Street Domain*

The Colston Budd Hunt and Kafes letter dated 4th December 2012 advises that the SIDRA analysis includes right turns into the Building C car park. The RMS in its letter dated 26th November 2012 reiterated the advice given 22nd June 2012 which stated:

Due to the proximity of the southern most driveway on Terry Street to the Victoria Road signalised intersection, entry movements at this driveway shall be restricted to left turn movements only. Right turn entry movements are to be discouraged by channelling the driveway. This shall be designed and constructed in accordance with Council's requirements.

Given the above RMS requirement, the vehicular access to the carpark to Building C must be designed to self-enforce the right turn entry ban by incorporating blister islands in the kerbside lane.

Sight distances to vehicular traffic in both directions are to be assessed at the proposed vehicle access to Building A in accordance with AS/NZS 2890.1-2004. It is likely that existing on street parking will have to be removed on either side of the access. Details are to be provided.



### *Roundabout*

A number of concerns are raised in relation to the geometric design of the proposed roundabout. The roundabout must be redesigned to address the following specific issues:

- (a) Left turns from New Road and Margaret Street require an MRV to cross into oncoming traffic in Terry Street which is unacceptable.
- (b) Right turns from Terry Street into New Road and Margaret Street require an MRV to cross the approach painted roundabout splitter islands which is unacceptable.
- (c) Swept path analysis has not been provided for the U turn movement in Terry Street from the north east approach.
- (d) The applicant advises that it is not feasible to provide concrete splitter islands in Terry Street. As it is unsafe to provide only linemarked splitter islands, a raised pedestrian crossing should be provided on the southern approach to the intersection to provide a safe location for pedestrians to cross Terry Street.
- (e) It is apparent that the roundabout requires significant redesign to address these issues, including but not necessarily limited to:
  - Realign the central roundabout island.
  - Widen and realign the New Road kerb to align with Margaret Street.
  - Relocate the kerb return on the north west corner (Margaret Street/ Terry Street corner) to the north west.
  - Relocate the kerb return on the south west corner (New Road / Terry Street corner) to the south west.

The applicant has advised that they believe the above amendments are not reasonable due to the requirement to relocate an existing Telstra pit on the south west corner of the intersection. Council has made enquiries with Telstra and have been advised that the cost of relocation of the pit is in the order of \$120,000 to \$150,000. However, Telstra advises that these costs include the lowering of the existing Telstra main through the new road, which would be required regardless of the above changes to the roundabout.

Note that the civil plan refers to another plan on Drawing No DRGC1601 which apparently details the roundabout. This plan has not been provided.

### *General*

Given the above RMS requirement in relation to banning right turn entry into the Building C carpark, the applicant must provide the estimated turning movements at the three access points from Terry Street to the development and accompanying SIDRA outputs including U-turn movements taking into consideration the banned right turn ingress movement into Building C for the weekday AM, weekday PM and Saturday peak.

As there are significant outstanding details required in relation to the road and drainage design and the retaining of the embankment on the south east corner of the site, it is recommended they be addressed by a deferred commencement consent.

Due to the extent of works and anticipated volume of heavy traffic that will be accessing the site during the demolition and construction phases, a dilapidation report will be required at the commencement and completion of the works. Any damage incurred during the works must be repaired. A bond must be provided to cover the cost of the potential damage.

Conditions are provided below on this basis.

#### Heritage Advisor

A significant proportion of the development site was historically occupied as the Elliott Brothers Glass Factory (and later as a laboratory – after the 1880s). This was a subsidiary premises to the main Elliott Brothers Chemical works on land, on the opposite side of Terry Street and fronting the nearby waterway, which later became (Monsanto Chemical works).

The Heritage Impact Statement submitted with the original planning proposal for the subject site prepared by John Graham & Associates and dated 1 November 2011 noted on page 12 that *“...some sub-surface remains of both the structures and industrial processes [of Elliott’s glass works and laboratory] may have survived. These remains are unlikely to yield information that is otherwise unknown to society. Nevertheless, an archaeological research design should be developed in conjunction with any remediation works should they be required. Remains of the structure(s) that formerly occupied 118 Terry Street may also survive, however, as the site has not been occupied by structures or people of significance, the remains are unlikely to yield information of value to the community. The proposed development will have no impact on any individually listed heritage item in the vicinity as the nearest items are some distance from the site...”*

This Heritage Impact Statement was subsequently reviewed by Heritage Consultants Perumal Murphy Alessi (on behalf of Leichhardt Council) who concluded, in part, in their review report dated 11 November 2011, that *“It is agreed that the existing buildings on the site are “recent” and of relatively “Little” significance...The report refers to the preparation of an “archaeological research design” (assume archaeological assessment or monitoring programme). It is recommended that the scope of this be clarified and some detailed archaeological analysis be carried out. Whilst it is agreed that any remains are likely to have been disturbed and are not likely to reveal any new information, it will clarify the existing nature of the site and may inform interpretation. It is recommended that the new work incorporate some interpretation of the early history, development and use of the site.”*

Refer also to further heritage comments provided in October 2012, as reproduced below:

#### “Heritage

- *Subject site is not located within such proximity to Heritage Items that it would have a significant impact.*

- *HIS recommends an archaeological research design be developed and submitted with the DA – this has not been done. This may require consultation with Heritage Council.*
- *Interpretation strategy required as applied to similar developments.*
- *Landscaping interface to streets of the conservation area is required. Given comments of Landscape Officer and Parks in relation to front setback and street planting, this seems insufficient.”*

The request for an archaeological research design was included in Council’s letter of 8 November 2012 requesting additional information.

It is considered that the matters relating to the “*archaeological research design*” and “*interpretation strategy*” can be readily addressed as deferred commencement conditions, should such a consent be issued for this application.

### Landscape Officer

#### *Existing trees:*

There are 55 trees located within the site and 1 tree (Tree 53) located on an adjacent site that will require removal should the application be supported. Tree 53 requires removal as the proposed excavation within the Structural Root Zone (SRZ) will result in a tree that is potentially unstable and additionally the significant loss of roots will render the tree unviable into the future. Written permission for the removal of Tree 53 (*Ficus benjamina*) has been provided from the property owner at 116 Terry Street where the tree is located.

Seven of the trees (Trees 16, 36, 42, 43, 44, 46 and 47) nominated for removal are dead and one tree (Tree 31) is an exempt species under the TPO. The remainder of the trees require removal as they spatially conflict with the proposed development and or due to the required soil remediation. The majority of the trees to be removed are in poor structural condition, are in decline or are exotic weed species.

The two street trees (Trees 54 and 54A) have not been shown on any plans and it is therefore not clear if they are in conflict with the proposed works. It is recommended that these trees be retained and protected during the works. Council’s street tree manager may have further comments in relation to these trees.

#### *Proposed Landscaping:*

Detailed comments are not able to be provided as the plans are Concept Plans only and provide little in the way of details such as plant quantities, plant size at installation, soil volumes (important for assessing the viability of on slab planting) etc.

The Concept Plans for the planting of the Terry Street interface have been amended to show smaller trees that are more suitable for the small volume of deep soil and small above ground area available for canopy development. The general concept is suitable to the proposed conditions.

The planting palette indicated on DWG DA-12 indicates several suitable canopy trees and shrubs, this is in conflict with the Black Bamboo indicated on the Dwg DA-07 (Rev G). The planting as indicated on DWG DA-12 (Rev G) is considered to be more suitable as the variety of forms and ultimate heights will combine to provide more effective screening and the diversity of species is more likely to have some habitat/environmental value.

Dense planting (predominantly low clumping plants with some taller shrubs in suitably placed clusters) and wide planter beds (min 1.5 meters) are required on the site boundaries adjoining 126 Terry Street and 11A Wellington Street to inhibit access to the boundary fences.

The planting of *Melaleuca quinquinervia* (Broadleafed Paperbark) is not supported as a species of street tree along the proposed internal roadway due to the soil volume requirements and clearances required in relation to any hard landscaping from the trunks that are not likely to be provided due to spatial constraints.

Approval is recommended subject to appropriate conditions.

#### Environmental Officer

It was noted during assessment that the Acoustic Report was incomplete (one sentence had been left unfinished). A corrected copy of the Acoustic Report has since been lodged. No objections are raised to the development on the grounds of either noise or contaminated land management, subject to the imposition of suitable conditions.

#### Property Officer

No objections raised subject to compliance with the dedication requirements of the Voluntary Planning Agreement.

Suitable conditions are included in this regard.

#### Urban Development/Parks and Streetscapes

Recommended deferred commencement condition relating to the linear park is considered satisfactory.

### **7. EXTERNAL REFERRALS**

The Development Application was referred to Roads and Maritime Services for comment. Their advice was as follows:

*I refer to your letter of 29 October 2012 regarding the abovementioned development proposal (D/2012/429) forwarded to the Roads and Maritime Services (RMS) for comment in accordance with the requirements of Clause 104 of State Environmental Planning Policy (Infrastructure) 2007. The Sydney Regional Development Advisory Committee (SRDAC) considered the traffic impact of this application at its meeting on 7 November 2012.*

*SRDAC reiterates the advice provided in the previous RMS letter dated 22 June 2012 (attached).*

*RMS has reviewed the planning proposal and provides the following comments to Council for its consideration in the determination of the proposal:*

- 1. The proposed shared zone requires approval of RMS. In this regard, RMS will only grant approval if the following criteria are met:*
  - a. The shared zone is to be less than 250 metres in length.*
  - b. The shared zone road environment is to be significantly changed from a normal road environment (Raised thresholds, pavement paint, footpath extensions, kerb blisters etc).*
  - c. There are to be no designated pedestrian facilities (Pedestrian crossings etc) within a shared zone.*
  - d. The shared road environment should be a self enforceable 10km/h speed zone i.e. traffic calming measures.*
  - e. The traffic volume in the shared zone is to be less than 300 vehicles per day.*
  - f. Speed zone signage is to be installed by RMS in accordance with Technical Direction 2000/6 - Shared Zone Signs.*
  - g. Parking within a shared zone must be in accordance with Australian Road Rules. It must be within marked bays and have regulatory signage.*
  - h. The shared zone must not have a footpath.*
- 2. Due to the proximity of the southern most driveway on Terry Street to the Victoria Road signalised intersection, entry movements at this driveway shall be restricted to left turn movements only. Right turn entry movements are to be discouraged by channelizing (sic) the driveway. This shall be designed and constructed in accordance with Council's requirements.*
- 3. The traffic generation of the proposed development will not have a significant traffic impact on Victoria Road. However, the proponent of the Balmain Tigers Club development proposal has been requested to undertake Paramics SCATSIM modelling, which assesses the cumulative traffic impact of both the Balmain Tigers Club development proposal and the subject Carrier Site development.*
- 4. The layout of the proposed car parking areas, loading docks and access driveways 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 - 2002 for heavy vehicle usage.*

5. *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 illustrates that the proposed development complies with this requirement.*

These requirements have either already been incorporated into the submitted plans, or are otherwise addressed by way of appropriate conditions.

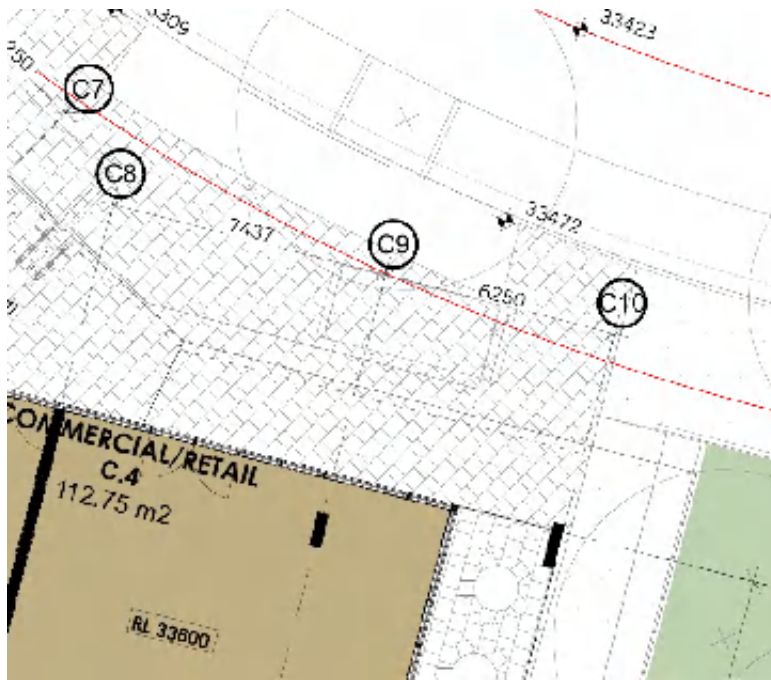
### AUSGRID

The proposal generates a need for two kiosk style electricity substations on site. The required design is known as an “L” style substation, and these are required to be located within 30m of the switch rooms of Building C and Building B.

The submitted design has shown twinned kiosks located side by side within the communal linear park. Council staff oppose this solution as it presents a poor urban design outcome, by visually and physically separating the park from the other public domain areas outside the shops/cafes etc immediately adjacent.

Council staff have liaised with Ausgrid, who have advised that the kiosks could be separated, with one on each side of New Street, or otherwise relocated, provided the dimensions and perimeter space are maintained as per their requirements, and the kiosks remain within the 30m radius. Ausgrid confirms that the nominated position in the park area is not mandatory.

On the basis of this advice it appears that possibly both kiosks could be relocated in a tandem position (i.e back to back not side by side) in front of Retail C.4, abutting the property boundary with New Street, or one kiosk each might be able to be located on either side of New Street. Liaison with Ausgrid suggests a number of options may be possible. Ausgrid have advised they are amenable to a condition of consent which requires the kiosks to be relocated, and allows the applicant to discuss options with Ausgrid, and obtain concurrence for new location/s, before obtaining operational consent.



*Possible relocation of 2x2 kiosks in tandem arrangement in front of C.4 near boundary line.*

The required dimensions for tandem kiosks are 2.05m wide by 10.6m long, inclusive of the open access space around each installation. If placed adjacent to the footpath boundary (the red curved line) this would still leave 2.7m clearance minimum to the front door of C.4 for pedestrian circulation (in addition to the actual footpath of New Street which is separate again). Furthermore, C.4 has a secondary frontage for the accommodation of tables and chairs (if desired) for a café, with that secondary space directly facing the park. It is Council's view, therefore, that such a placement would not significantly compromise the feasibility of C.4 as a retail outlet, would not unacceptably interfere with safe and efficient pedestrian movement, and would be within the 30m siting requirement of Ausgrid. This would allow for a much improved park design. Council is also amenable to locating one kiosk each on both sides of New Road, if locational constraints allow.

## 8. CONCLUSION

The Development Application has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The proposal has largely addressed the site specific controls, objectives and standards imposed by virtue of the Leichhardt Local Environmental Plan (Amendment No.19), and the site specific development control plan policies. Furthermore the proposal satisfies the objectives of Leichhardt Local Environmental Plan 2000 and will not result in significant adverse impacts for locality. A number of technical matters require further resolution, in detail, not in their fundamentals, relating in particular to demonstrating final compliance with the following:

- i) Detail of the treatment of the landscaped area adjacent to 126 Terry St to protect the amenity and security of that property;

- ii) Resolution of the roundabout at the intersection of Margaret St, Terry St and New Road to satisfy Council's engineers;
- iii) Further detail regarding the embellishment of the Linear Park including relocation of the sub-stations (one or both) to provide for better urban design outcomes; and
- iv) Further detail of the repositioning and treatment of the bin store room located at grade off New Road to provide for safe off-street collection with minimal noise disruption for residents.

Council planning, engineering, waste management, landscaping and urban design officers have examined each of the four points above in detail, having regard to the feasibility and implications of each requirement, and are of the opinion that each is able to be achieved without significant additional cost or major redesign.

Accordingly the application is recommended for deferred commencement approval, subject to the conditions listed in the attachment.

## **9. RECOMMENDATION**

That Council, as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979, grant Deferred Commencement Consent to Development Application No: D/2012/429 for demolition of existing buildings, remediation, mixed use development comprising 202 apartments 1270sqm of retail commercial space 411 sqm of light industrial space and 250 car spaces and subdivision, construction and dedication of a new road, plus a temporary sales office with display units and signage at 118-124 Terry Street, ROZELLE NSW 2039 subject to the attached conditions.

Attachment 1: Draft (deferred commencement consent) conditions.

Attachment 2 – Recommended relocation of bin store off New Road outlined in red and attached by way of condition of consent.

Attachment 3 – SEPP 65 Assessment (design guidelines)