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**1-3 MARMADUKE & 7 DEANE ST BURWOOD – 22 STORY MIXED USE DEVELOPMENT COMPRISING GROUND FLOOR RETAIL, 62 SERVICED APARTMENTS, 36 RESIDENTIAL APARTMENTS, 4 BASEMENT LEVELS OF PARKING FOR 108 VEHICLES – DA 136/2012.**

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Trim No: 13/6651

REPORT BY MANAGER BUILDING &amp; DEVELOPMENT - BURWOOD COUNCIL

**Applicant:** Sky Profit Properties Development Pty Ltd  
**Location:** North Western corner of Marmaduke & Deane St Burwood  
**Zoning:** **B4 Mixed Use, Burwood Town Centre LEP 2010 (now repealed) and Burwood LEP 2012.**  
**Cost:** **\$34,941,945**

**Proposal**

This is a development application for a 22 storey mixed use development as follows:

- 3 ground floor retail units comprising 655m<sup>2</sup>
- 62 serviced apartments on levels 1 to 11 comprising 3 studios, 36 x 1 bedroom, 21 x 2 bedrooms, 2 x 3 bedrooms with the apartment areas varying from 46m<sup>2</sup> to 95m<sup>2</sup> and having a total area 4111m<sup>2</sup>. The serviced apartments are considered commercial floor space.
- 36 residential apartments on levels 12 to 21 comprising 8 x 1 bedroom, 26 x 2 bedroom, 2 x 3 bedroom with the apartment areas varying from 50m<sup>2</sup> to 148m<sup>2</sup> and having a total area of 2643m<sup>2</sup>.
- 4 levels of basement parking for 108 vehicles (including 9 disabled spaces) as well as 11 motor bike and 21 bicycles spaces. Vehicle access is via Marmaduke Street.
- Communal open space is provided on level 4 above the 3 storey podium.

The site has an area of 1322m<sup>2</sup>, the development has a total Floor Space Ratio (FSR) of 6:1, comprising 4:1 commercial/retail and 2:1 residential FSR.

**Background**

The applicant lodged a pre-DA to Council in February 2012 and Council provided detailed comments including specialist urban design advice to the applicant in April 2012. The applicant subsequently lodged further amended plans to Council in June 2012 and was provided with further advice (including specialist urban design comments) in July 2012. Copies of Council's letters and urban design reports from Council's urban design consultants are contained in the Statement of Environmental Effects lodged with this development application. In short a number issues were identified in the original pre-DA application, the applicant attempted to resolve the matters and subsequently lodged further plans to Council for comment in June 2012. This development application was lodged to Council in October 2012. Following an initial assessment Council forwarded a letter dated 14 November 2012 which included an initial urban design assessment. The applicant responded by submitted further information to Council on 24 December 2012 and 10 January 2013.

**Statutory Requirements****Heads of Consideration**

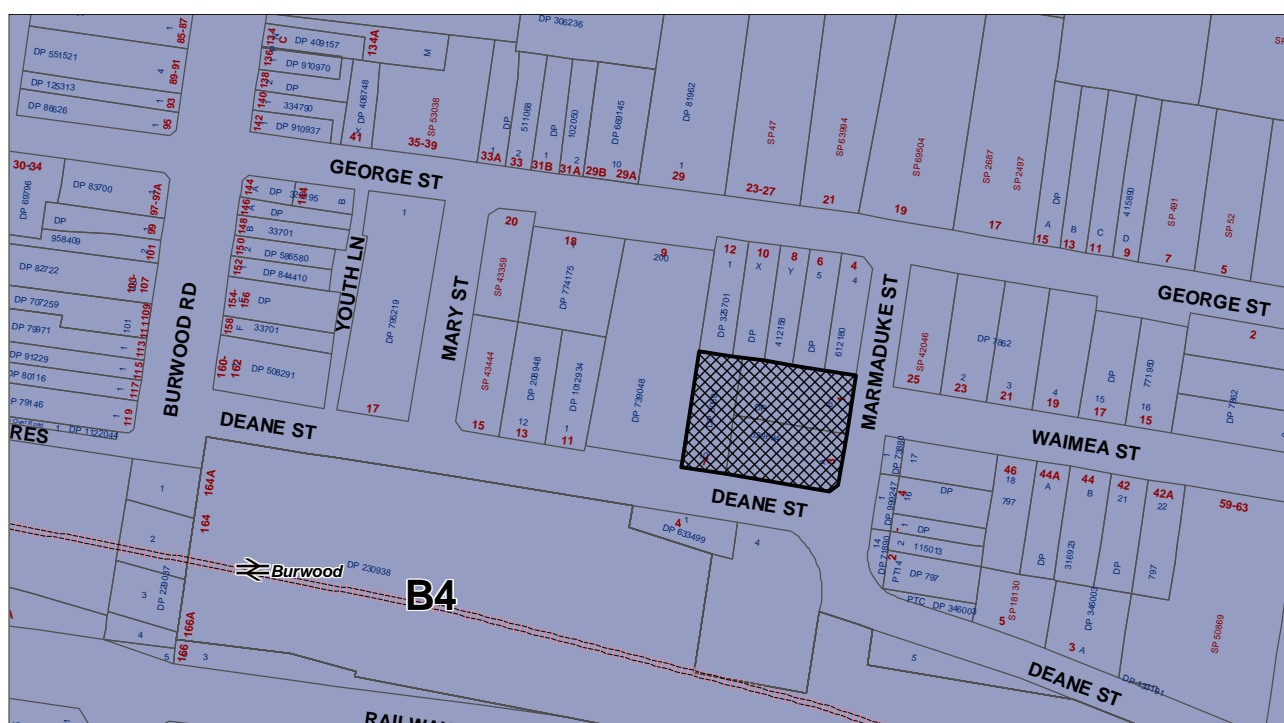
The application is assessed under the provision of Section 79C of the *Environmental Planning and*

Assessment Act 1979, as amended, which includes:

- The provisions of an environmental planning instrument – Burwood LEP (Burwood Town Centre) 2010 (BTC LEP 2010), State Environmental Planning Policy (Infrastructure) 2007, Burwood LEP 2012.
- The provision of any development control plan – Burwood Town Centre Development Control Plan (DCP 36)
- The impact of the development in relation to:
  - The context and setting of the development
  - The impact on the natural and built environment
  - Shadowing of adjoining properties
  - Street impact
  - Streetscape and urban design issues
  - Crime prevention through environmental design
- The suitability of the site for development
- The public interest
- Social and economic impact
- Submission made under the Act and Regulations

These matters are addressed in the following report.

## Locality



## Site & Surrounds

The corner development site consists of 3 allotments being 1&3 Marmaduke St and 7 Deane St Burwood. The site has a total area of 1322m<sup>2</sup> with a frontage to of 41.06m to Deane St and 29.58m to Marmaduke St and each of the 3 sites currently contains a 2 storey residential flat building and ancillary outbuildings. The site has a cross fall from the south east corner of the site to the North West up to approximately 2.5m. Adjacent to the north of the site are a number of single storey cottages with frontages to George St Burwood, on the northern side of George St are a number of residential flat buildings varying in height up to 5 storeys, to the east of the site is

Burwood library and a 2 storey residential flat building with parking under as well as single storey buildings and further to the east in Waimea St, to the south of the site is the Main Western rail line and Burwood Railway Station, adjacent to the west is a 5 storey commercial office building and further west a 17 level mixed use development is under construction.

The site and surrounding area is zoned B4 Mixed use pursuant to Burwood LEP 2012. The site is also located within the "core area" of the Burwood Town Centre and accordingly has a restriction on a maximum residential Floor Space Ratio (FSR) permitted pursuant to clause 4.4 of the BTC LEP 2010 as well as other requirements pursuant to DCP 36.

### **Planning Assessment**

The application was lodged to Council on 22 October 2012. Burwood LEP 2012 was made on 9 November 2012 and pursuant to Clause 1.8A - Savings & Transitional Provisions of Burwood LEP 2012, as this development application had not been determined before the commencement of the instrument it must be assessed and determined as if Burwood LEP 2012 had not been commenced. It is also noted that the serviced apartments are considered as commercial floor space and not part of the residential component of the development.

In view of the above, the application is assessed against the provisions of the Burwood LEP (Burwood Town Centre) 2010. It should be noted that the development standards between the 2 instruments are the same and the provisions of the Burwood LEP (Burwood Town Centre) 2010 were carried over into the Burwood LEP 2012 with only minor changes to content and format and no changes to the development standards. A compliance table in respect of the Burwood LEP 2010, Burwood Town Centre DCP 36 are set out below:

<b>Standard</b>	<b>Required/Permitted</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Burwood LEP 2010</b>			
Site Area	500m <sup>2</sup>	1322m <sup>2</sup>	Yes
FSR - Overall	6:1	6:1	Yes
-Residential	2:1	2:1	Yes
Height	70m	69.4m	Yes
<b>Burwood Town Centre DCP 36</b>			
Podium Height	15m (street front) North west corner	15m 15.7m	Yes No – Considered acceptable given the topography of site
Street Setbacks (Deane & Marmaduke)	3m	3m	Yes
Secondary Setbacks (Deane & Marmaduke)	6m	6m	Yes
Apartment Mix	Mix of Apartments where more than 20 apartments proposed	8x1 bed, 26x2 bed, 2x3 bed	Acceptable
Apartment size	1 bed – 50m <sup>2</sup> 2 bed – 70m <sup>2</sup> 3 bed – 95m <sup>2</sup>	1 bed – 50m <sup>2</sup> 2 bed – 70m <sup>2</sup> 3 bed – 122-148m <sup>2</sup>	Yes
Private Open Space (Balcony Size & Depth)	1 & 2 bed – 8m <sup>2</sup> min 3 bed – 10m <sup>2</sup> min Depth 2-2.5m	8m <sup>2</sup> -11.5m <sup>2</sup> 3 bed – 18-21m <sup>2</sup> Depth 2-2.4m	Yes  Yes/No Minor Variation to 2 & 3 beds

Building Depth	18m	13m & variable	Yes
Storage Areas	50% within unit – excluding wardrobe and kitchen cupboards	1 bed - 6m3 2 bed – 8m3 3 bed – 10m3	No, areas include ward robes – addressed by conditions of consent.
Separate entry to commercial & residential areas	Separate residential & commercial entries	Provided	Yes
Energy Efficiency & Sustainability	BASIX Certificate & Commercial component to achieve 4.5 star Nabers	BASIX Cert provided. No information on Nabers rating.	Yes No. To be addressed by condition of consent.
Ceiling Height	Commercial - 3m Residential - 2.7m	Serviced Apartments (comm.) 3m Residential 2.7m	Yes Yes
Parking	Retail & Serviced Apartments 65 Residential 37 Visitors 6 Total 108	108 spaces total Ret & Ser Apart 65 Residential 37 Visitors 6	Yes
Bicycle Storage	12 spaces (1 Bay per 3 dwellings)	21	Yes
Access & Mobility	Access & Mobility per AS 1428.1 – Main entrance, car park and communal areas  5% of dwellings accessible 10% of dwellings adaptable  One accessible parking space per accessible and adaptable unit.	Provided  2 dwellings 4 dwellings  6 accessible spaces	Yes  Yes Yes Yes
Communal open Space	25% of site min, 330m2, 25% of open space to be deep soil zone 83m2	516m2 open space 264m2 deep soil	Yes Yes

As can be seen from the above table the development application generally complied with the provisions of Burwood LEP 2010 and Burwood Town Centre DCP 36 with several minor variations. Generally these may be addressed by suitable conditions of consent.

### Urban Design

During the course of the pre-DA assessment and the development application Council engaged an urban design consultant GM Urban Design & Architecture (GMU). GMU have reviewed the documentation for this development on four (4) occasions, being twice at pre-DA stage and twice with the development application. Particular attention was provided with the compliance with aspects of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the NSW Residential Flat Design Code (RFDC). The applicant has

included the 2 pre-DA letters of advice from Council with the accompanying urban design reports in the Statement of Environmental Effects lodged with the application. The 2 reports from GMU that relate to this application are attached.

The first report from GMU dated 16 November 2012 advised that a number of the issues raised in the pre-DA advice in June 2012 have been appropriately addressed however other issues remain or have arisen from changes to the scheme. These matters related to communal open space, storage and building articulation and façade treatment.

The applicant subsequently submitted amended plans on 24 December 2012 that were further reviewed and a report from GMU dated 8 February that the proposal had successfully resolved most of the SEPP 65 issues outlined in the pre-DA comments and minor amendments minor amendments to the communal open space and façade treatments may be addressed by conditions of consent.

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

The application has addressed the 10 Design Quality Principles in the SEPP 65 Design Verification Statement lodged with the documentation being:

- Principle 1: Context.
- Principle 2: Scale.
- Principle 3: Built Form.
- Principle 4: Density.
- Principle 5: Resource, Energy and Water Efficiency.
- Principle 6: Landscape.
- Principle 7: Amenity.
- Principle 8: Safety and Security.
- Principle 9: Social Dimensions.
- Principle 10: Aesthetics.

The comments made in the Design Verification Statement regarding the above Principles are generally agreed with however it is noted that in respect of Principle 5, Resource, Energy & Water Efficiency the required Nabers rating of 4.5 stars has not been reached and a Nabers assessment certificate has not been provided for the commercial component of the building. It is considered that this matter may be addressed by condition of consent.

#### NSW Residential Flat Design Code (RFDC)

Council's urban design consultant GMU has assessed the design pursuant to the RFDC development guidelines and the subsequent rules of thumb. Building Depth, Setbacks from Boundaries, FSR, Deep Soil Zones, Landscape Design, Open Space, Orientation, Building Entry/Safety, Parking, Visual Privacy, Apartment Layout and Size, Apartment Mix, Building Configuration, Storage Provision, Acoustic Privacy, Daylight Access, Natural Ventilation and Building Facade Treatment. The proposal generally satisfies the RFDC guidelines and Council's consultants are satisfied that the urban design quality of the proposal is such to warrant a recommendation for approval.

#### Referrals

Council's Asset and Design Section has no objections to the proposed stormwater disposal concept, subject to standard conditions. Council's Area Building Surveyor, Manager Environment & Health and Manager Traffic & Transport have raised no objections to the development subject to conditions. Additionally the application was referred to NSW Roads & Maritime Services (RMS) as well as RailCorp pursuant to the provisions of the Infrastructure SEPP 2007. By letter dated 26 November 2012 RMS raised no objections to the proposal subject to conditions.

## **Community Consultation**

Following notification of the development application Council received 2 submissions, one from the owner/occupier of the adjoining building to the west and the other from a consultant on behalf of the owner of the buildings to the east of the site across Marmaduke Street. A summary of the issues raised with town planning comments are set out below:

- *Setbacks from the western side & eastern side (Marmaduke St) are inadequate raising amenity issues for the future re-development of the land in Marmaduke St and do not comply with the rule of thumb from NSW Residential Flat Design Code.*

### **Comment**

Council's urban design consultant has looked closely at the setbacks of the development and is of the view that they comply with the rules of thumb of the RFDC. In respect of the western setback the tower element is setback 6m from the western side boundary. The 5 storey adjoining office building to the west has been included in a development that also includes the adjoining site, but no development is proposed over the office building. The nearest balcony or window facing toward the subject site will be approximately 32m in separation distance between the 2 buildings. This is considered more than adequate in the circumstances and complies with the RFDC. Notwithstanding, the western elevation of the subject building only contains a highlight windows to a bedroom, ensuite and bathroom above level 4 of the development and as such it is considered that a development proposal for the adjacent office building could easily incorporate a similar design scenario to enable a satisfactory outcome in respect of the RFDC.

In respect of the eastern boundary (Marmaduke St) the submission suggests that the setback of the tower is only 11m from the centre of the road and as such the setback does not comply with the RFDC. It is sufficient to say that the set backs as illustrated in the RFDC relate to buildings either adjacent to each other or on the same site. There is no requirement or guideline in the RFDC that measures building separation from the middle of a road.

- *Incorrect documentation – the SEE has referenced architectural plans that were exhibited.*

### **Comment**

Following discussion with the consultant it is considered that this matter is no longer in dispute.

- *The communications capability of St Johns Ambulance will be diminished by the development and negate the effectiveness of St John's Ambulance as a member of State Emergency Services during a declared emergency.*

### **Comment**

This matter was raised with the applicant who commissioned a report on this matter and subsequently advised that the development will impact upon the communications reception of St Johns Ambulance in the adjoining building. This issue was also raised with re-development of 11-15 Deane Street & 18-20 George St Burwood that adjoins the St Johns Ambulance building to the west. This matter was addressed by suitable conditions of consent and it is considered that this is a technical matter that may be addressed by both property owners prior to release of a construction certificate for the development.

## **Conclusion**

The development generally complies with the provisions of Burwood LEP 2010, Burwood DCP 36 and the guidelines of the NSW Residential Flat Design Code. The applicant has been provided with considerable input from Council from an urban design viewpoint from pre-DA through to the assessment stage and the design has evolved to a point where Council's urban design consultant is satisfied that the design is a standard that can be supported subject to several conditions. The issues raised by Council's urban design consultant are readily addressed by condition of consent. The development is considered worthy of support and accordingly is recommended for approval, subject to conditions

### **Recommendations**

That DA 136/2012 for a 22 storey mixed use development comprising 3 ground floor retail units, 62 serviced apartments on levels 1 to 11, comprising 3 studios, 36 x 1 bedroom, 21 x 2 bedrooms, 2 x 3 bedrooms, 36 residential apartments on levels 12 to 21 comprising 8 x 1 bedroom, 26 x 2 bedroom, 2 x 3 bedroom, 4 levels of basement parking for 108 vehicles (including 9 disabled spaces) at 1-3 Marmaduke & 7 Deane St Burwood **be approved** subject to the following conditions:

### Conditions of Approval

- (1) The development being carried out in accordance with the following plans and documentation submitted to Council on 22/10/2012 & 24/12/2012, except where amended by the conditions of consent.

<i>Drawing No.</i>	<i>Plan</i>	<i>Issue/Revision</i>	<i>Dated</i>
DA- 100	Cover Sheet 1/2	5	Dec 2012
DA- 100	Cover Sheet 2/2	1	Dec 2012
DA- 1000 to 1022	Plans, Section, Elevations	5	Dec 2012
DA- 1023	Materials & Finishes Schedule	4	Oct 2012
DA 1024	Demolition Plan	4	Oct 2012
H-01 to 03	Stormwater Concept Plan (AKY Civil Eng)	C	3.10.2012
12-2582 L01 to L03	Landscape Plans (Zenith Landscape Designs)	A	3.10.2012
Revised Perspectives			Dec 2012
BASIX Certificate	445846M		12.10.2012
Traffic & Parking Assessment Report	VargaTraffic Planning Pty Ltd		17.10.2012
Noise Assessment	SLR Consulting	0	11.9.2012
Draft Operational Management Plan – Serviced Apartments			Jan 2013

**FEES**

- (1) Building and Construction Industry Long Service Corporation Levy **\$122,296.00**  
**(Payment to be made to Council, the Corporation or its Agent)**
- (2) Damage Deposit - security deposit against damage occurring to Council's assets (footpath, road, stormwater drainage system, kerb and gutter, etc) during building work **\$ 50,000.00**  
**(Payment to be made to Council as a bond prior to issue of a Construction Certificate and/or commencement of demolition/bulk excavation)**

NOTE: This deposit is refundable if no damage occurs.

- (3) Construction by the Applicant/Council the stormwater drainage works **\$10,000 (Payment to be made to Council as a bond)**
- (4) **If Council is nominated as the Principal Certifying Authority (PCA)** a fee is to be paid.

This fee is for inspections and duties as a principal Certifying Authority at the rate listed in Council's current Schedule of Fees and Charges. Any additional inspections, including re-inspections, shall be levied and paid to Council upon booking of an appointment at the rate listed in Council's current Schedule of Fees and Charges  
**(Payment to be made to Council).**

**PLANNING**

- (1) The applicant shall liaise with St Johns Ambulance at 7 Deane St Burwood to make satisfactory arrangement to ensure that all operational communication facilities for St Johns Ambulance are not affected by the development. All costs incurred with ensuring that the operational standard of the communications facility is maintained both during construction and post development shall be borne by the applicant, but only as a result of impacts created by this development. Documentary evidence of the satisfactory resolution of the continued operational level of the communications from the St Johns Ambulance building **shall be provided to Council prior to release of a Construction Certificate.**
- (2) 108 car parking spaces being provided for the development on site and being allocated as 37 spaces for the residential apartments, 6 visitor spaces, 1 retail space and 64 spaces for the serviced apartments. Car spaces are to have minimum dimensions of 2.6m x 5.5m and the spaces are to be hard paved, drained, linemarked and maintained at all times.
- (3) The car space allotments on any strata plan being made a part of the relevant dwelling section allotment and the visitor parking spaces remaining as common property, with two (2) spaces being allocated to the three (3) bedroom dwellings and at least one (1) space allocated to other apartments. All car spaces shall be allocated to a lot in any strata plan except for visitor spaces which shall be designated as common property. Car spaces shall not be designated as separate lots in any subdivision plan.
- (4) The height of the building, including the lift motor and plant room(s) being restricted to AHD 93.80. A Compliance Certificate from an Accredited Certifier, Registered Surveyor or other suitably qualified person, shall be submitted to Council or to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (5) The applicant is to consult with Energy Australia to determine the need for an electricity substation **prior to the issuing of a Construction Certificate** and, if a site is required, it being situated adjacent to the street alignment, with the size and location of the area being in accordance with the requirements of this Council and Energy Australia, and the land required



being dedicated without cost as a public roadway, to enable Energy Australia to establish the substation. The linen plan being submitted to Council for approval and issue of a Subdivision Certificate and being registered with the Land Titles Office prior to the issue of an Occupation Certificate.

- (6) Pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 and the Section 94A Contributions Plan for Burwood Town Centre, the following monetary contribution towards public services and amenities is required:

Contribution Element	Contribution
A levy of 4 per cent of the cost of carrying out the development, where the cost calculated and agreed by Council is <b>\$34,941,945</b>	<b>\$ 1,397,677.00</b>

Index Period	June 2012	CPI <sub>1</sub>	[179.9
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Office Use: T49

**The above contribution will be adjusted at the time of payment. Applicants are advised to contact Council for the adjusted amount immediately prior to arranging payment.**

The contribution will be adjusted in accordance with the following formula:

$$\text{Contribution (at time of payment)} = \frac{C \times \text{CPI}_2}{\text{CPI}_1}$$

Where:

- C: the original contributions amount as shown in the development consent;
- CPI<sub>2</sub> the Consumer Price Index: All Groups Index for Sydney, for the immediate past quarter (available from the Australian Bureau of Statistics at the time of payment)
- CPI<sub>1</sub> the Consumer Price Index: All Groups Index for Sydney applied at the time of granting the development consent as shown on the development consent.

Note: The minimum payment will not be less than the contribution amount stated on the consent.

The contribution is to be paid to Council, or evidence that payment has been made is to be submitted to the Principal Certifying Authority, **prior to the issuing of a Construction Certificate.**

Council may accept works in kind or other material public benefits in lieu of the contribution required by this condition subject to and in accordance with the requirements specified in the Section 94A Contributions Plan for Burwood Town Centre.

Note: Credit cards and personal cheques are not accepted for the payment of Section 94A contributions.

- (7) A detailed final Operational Management Plan for the serviced apartments shall be submitted to the PCA for approval prior to the release of an Occupation Certificate for the development. The detailed final Operational Management Plan shall provide details, regarding tenure, cleaning, maintenance, security, parking management and other operational matters for the serviced apartments in the development
- (8) No drying of clothing being permitted on balcony and patio areas which are visible from a public place.

- (9) A separate Development Application being submitted for the display and/or erection of any advertising signs relating to any of the tenancies of the building. Such application is to include full details of the dimensions, mode of attachment and means of illumination (if any).
- (10) The noise emitted by the air-conditioning equipment being inaudible in your neighbours' homes between 10pm and 7am weekdays and 10pm and 8am on weekends and public holidays.
- (11) Prior to the issuing of an Occupation Certificate Council is to receive a payment of pro-rata fees for and receipt from Council of mobile garbage bins for the development.

The weekly fee is \$5.00 for each residential flat building unit, townhouse or villa.

- (12) A "Work as Executed" drainage plan is to be submitted for Council's approval prior to the issuing of either an Occupation Certificate or a Subdivision Certificate.
- (13) Prior to commencement of any site works, all trees identified in the landscape plan to be retained, shall be enclosed by protective fencing to prevent them from being damaged during the construction period.
- (14) All vehicles shall enter and leave the site in a forward direction.
- (15) Off street parking associated with the proposed development (including grades, aisle widths, aisle lengths, turning paths, sight distance requirements shall be designed in accordance with AS 2890.1-2009.
- (16) Safety and security night lighting being provided for the development to the satisfaction of the Principal Certifying Authority.
- (17) All external services including air conditioning units, electrical or gas water heaters, meters, equipment, conduits, drainage and water pipes, are to be located in recessed enclosures within the external walls, and are not be visible from the public domain area or road. Details are to be provided in the Construction Certificate Plans.
- (18) All open balconies are to have a hob on their outer edges, to prevent water dripping along the external edge(s) of the balconies, and are to be adequately drained. All external glass balustrading is to consist of opaque glazing where provided.
- (19) The development shall be provided with a suitable awning as a weather protection over the main entrance to the building. Details being submitted to the Principal Certifying Authority, **prior to the issue of a Construction Certificate.**
- (20) Storage areas are to be provided to all units in accordance with the rate specified in the NSW Residential Flat Design Code of 6m<sup>3</sup> for a 1 bed apartment, 8m<sup>3</sup> for a 2 bed apartment and 10m<sup>3</sup> for a 3 bed apartment. A minimum of 50% of the storage shall be located within each unit and does not include wardrobe or kitchen cupboard space. **Plans shall be amended prior to release of Construction Certificate.**
- (21) The proposed sliding screens to the balconies on the northern elevation shall be accentuated in colour and materials to provide an appearance where the screen clearly contrasts against the white background. Frames for the sliding screens shall be of a sufficient size and thickness so as to be readily discernible. Specific details of the screens such as final colour, material and frame size shall be submitted to Council for approval **prior to release of the Construction Certificate.**
- (22) The proposed 6m wide landscape strip on the western side of level 4 shall be reduced to 3m

in width. The 3m width gained shall be added to the communal open space on level 4, and shall allow the bench seating and bar-b-q- area to be open to the sky.

- (23) The 62 serviced apartments are to be managed from a Management Office which shall be provided within the commercial space of the building on the ground floor level. This commercial space shall be provided with directional signage from Deane St to ensure that patrons know how to access and contact the management office at all hours. The Management Office space on the ground floor level shall be clearly designated on the Construction Certificate plans **prior to release of a Construction Certificate**.
- (24) On any strata subdivision of this development, which includes strata subdivision of the 62 serviced apartments there shall be registered over the titles to:
- (a) Each of the 62 serviced apartment lots pursuant to s88E of the Conveyancing Act a restriction as to user in the following form:
- “The registered owner of the lot burdened must not use the lot, nor cause, permit or allow it to be used other than for temporary or short term accommodation on a commercial basis providing self contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner’s or manager’s agent.”
- (25) Any strata by-laws registered over the strata subdivision shall include the following strata by-laws specifying that:
- (a) The serviced apartment lot owners must not enter into a residential tenancy agreement in relation to the lot.
- (b) The 62 serviced apartment lots will be managed by one company or agent to be nominated by the strata manager and that such manager or agent shall operate from the office located on the ground level.
- (26) Prior to commencement of any site works, all trees identified in the landscape plan to be retained, shall be enclosed by protective fencing to prevent them from being damaged during the construction period. It is noted that the proposed driveway ramp on the northern boundary will adversely impact, by way of destabilisation, an existing 10m tall Italian cypress (*Cupressus sempervirens*) located on the southern boundary of 4 George Street Burwood. The applicant must resolve this issue with the owner of 4 George Street Burwood through the process outlined in Council’s Tree Preservation Order policy. Documentary evidence shall be provided to Council of the satisfactory resolution of this matter **prior to the release of any Construction Certificate for the development**.
- (27) The landscape plan submitted with this development is amended in that **NO approval** is given for the proposed planting of three (3) Chinese tallow trees (*Sapium sebiferum*) within the public footpath of Deane Street. This species is not suitable for the location.

In lieu of the planting of the 3 Chinese tallow trees, Council requires the removal of two (2) existing European golden ash trees (*Fraxinus excelsior* ‘Aurea’) located within the existing footpath, outside the proposed development site in Marmaduke Street. This is required to facilitate the footpath upgrade and Five (5) new plantings of Evergreen ash (*Fraxinus* ‘Griffithii’) are required to be provided as follows:

Two (2) trees shall be planted on the Marmaduke Street frontage and three (3) shall be planted on the Deane Street frontage. The trees shall be planted not closer than 8m from the street corner and shall have minimum spacings of 8m from their centres. The trees shall be

procured in minimum container sizes of 75 litres volume. The trees shall be installed using suspended pavements over non-compacted soils, incorporating a modular root cell system, to Council's satisfaction. The minimum dimensions of the modular root cell units shall be 3m long x 2m wide x 1m deep, leaving an open base of 1.2m x 1.2m for each tree. The edge of the openings within the suspended pavement shall be offset by 1.0m from the back of the kerb.

- (28) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control **shall be submitted to Council prior to the issue of a Construction Certificate.**
- (29) The applicant shall provide a Nabers assessment for the development detailing that the commercial portion of the building achieves a 4.5 star rating. The assessment is to be provided to the Principal Certifying Authority **prior to release of the Construction Certificate.**

## **BUILDING**

- (1) Where residential building work (within the meaning of the *Home Building Act 1989*) is proposed to be carried out, either of the following is to be provided to the Principal Certifying Authority **prior to the issuing of a Construction Certificate:-**
  - a. Where work is carried out by a licensed tradesman or builder:
    - (i) written advice of the licensee's name and contractor licence number, and
    - (ii) a certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* to the effect that a person is the holder of an insurance contract issued for the purposes of that Part.
  - OR
  - b. Where work is carried out by an owner-building:-
    - (i) written advice of the person's name and Owner-Builder Permit number, or
    - (ii) a signed declaration from the owner of the land that states the reasonable market cost of the labour and materials involved in the work is not high enough for the owner to need an Owner-Builder's Permit to do the work.
- (2) Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:
  - a. must be a standard flushing toilet, and
  - b. must be connected:
    - (i) to a public sewer, or
    - (ii) to an approved chemical closet facility.

The toilet facilities are to be completed before any other work is commenced.
- (3) All excavations and backfilling associated with the erection or demolition of a building shall be carried out in a safe and careful manner and in accordance with appropriate professional standards. All necessary planking and strutting shall be of sufficient strength to retain the sides of excavations. A Certificate verifying the suitability of structural details for any proposed shoring is to be submitted to the Principal Certifying Authority before excavating.

- (4) All excavations associated with the erection or demolition of the building are to be properly guarded and protected to prevent them from being dangerous to life or property.
- (5) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavation below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Allotment of land includes a public road and any other public place.

- (6) If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - building involves the enclosure of a public place.

A hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

- (7) Your attention is directed to the following:-

#### **WARNING**

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped and a copy is to be provided to the Principal Certifying Authority **prior to the issuing of a Construction Certificate.**

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details – see Building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Developing then Building and Renovating

or telephone 13 20 92.

- (8) The builder is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property. Pedestrian access across the footpath must be maintained at all times. Any damage caused will be made good by Council at Council's restoration rates, at the builder's expense.
- (9) No materials are to be stored on Council's roads, footpaths or parks.
- (10) The builder shall erect and maintain in good order all necessary hoardings, barricades and warning signs required to provide adequate public safety. Night warning lamps are to be provided where necessary.
- (11) Hours of work shall be from 7:00am to 5:30pm Mondays to Fridays inclusive, and from 7:00am to 4:00pm Saturdays. No work shall be carried out on Sundays or Public Holidays. The owner/builder shall be responsible for the compliance of this condition by all sub-contractors, including demolishers.
- (12) The approved structure shall not be used or occupied unless an Occupation Certificate (being a Final Certificate or an Interim Certificate) as referred to in section 109C(1)(c) of the *Environmental Planning & Assessment Act 1979* has been issued.

(Vide Section 109M *Environmental Planning & Assessment Act 1979*)

- (13) The building works are to be inspected during construction by the Principal Certifying Authority or an appropriate Accredited Certifier authorised by the Principal Certifying Authority at the stages of construction listed in the following schedule. The Principal Certifying Authority must be satisfied that the construction satisfies the standards specified in the Building Code of Australia or in this approval before proceeding beyond the relevant stage of construction.

#### SCHEDULE OF CONSTRUCTION STAGES REQUIRING INSPECTION

- ✱ After the commencement of the excavation for, and before the placement of, the first footing;
  - ✱ Prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building;
  - ✱ Prior to covering any stormwater drainage connections; and
  - ✱ After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.
- (14) An application for a Construction Certificate is to be made to Council or an Accredited Certifier. Council's 'Construction Certificate Application' is to be used where application is made to Council. Copies are available upon request. A Construction Certificate must be obtained **prior to the commencement of building work**.
  - (15) Dial Before You Dig is a free national community service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with the essential services we use everyday – electricity, gas, communication and water.

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no/name, side of street and the distance to the nearest cross street) or register on line at [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) for underground utility services information for any excavation areas.

The Dial Before You Dig service is also designed to protect Australia's excavators. Whether you are a back yard renovator, an individual tradesmen or a professional excavator the potential for injury, personal liability and even death exists everyday. Obtaining accurate information about your work site significantly minimises these risks.

Reason: To ensure that essential services such as electricity, gas, communication and water are not affected by excavation or construction.

- (16) All building works being erected wholly within the boundaries of the property.
- (17) All sanitary plumbing being concealed in suitably enclosed ducts. Such ducts are to be constructed internally (i.e. not on the outside face of an external wall) and are to be adequately sound-proofed.
- (18) All plumbing and drainage work being carried out by licensed tradesmen and in accordance with the requirements of the Plumbing Code of Australia.
- (19) The floor of the wet areas being of a material impervious to moisture and graded and drained to the sewers of Sydney Water.
- (20) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (21) Safety glazing complying with B1.4 of the Building Code of Australia used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with Australian Standard AS 1288-2006: Glass in Buildings - Selection and Installation. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (22) Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with Australian Standard AS 1288-2006, Table 4.5 SAA Glass Installation Code (Human Impact Considerations) and B1.4 of the Building Code of Australia. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (23) Treatment for the protection of the building from subterranean termites must be carried out in accordance with Australian Standard AS 3660.1-2000 "Termite management - New building Work."

If the method of protection is to be by way of a chemical barrier, it becomes the responsibility of the owner to maintain a suitable maintenance procedure in accordance with the manufacturer's requirements. Such responsibility is placed solely upon the owner.

After treatment the following is to be carried out:-

- a. A durable notice must be permanently fixed to the building in a prominent location, such as the meter box, indicating:-
  - (i) The method of protection.
  - (ii) The date of installation of the system.
  - (iii) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label.
  - (iv) The installer's or manufacturer's recommendation for the scope and frequency of future inspection for termite activity.

- b. Provide the Principal Certifying Authority with a Certificate which verifies that termite protection has been provided in accordance with Australian Standard AS 3660.1-2000. In the case of Reinforced Concrete Slab construction the Certificate is to verify that the protection incorporates both beneath slab (Part A) and slab penetrations (Part B) treatment.

Details showing compliance with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

- (24) A registered surveyor's certificate being submitted to the Principal Certifying Authority as follows:-
  - a. Before pouring of concrete slab on every level to indicate the height of the finished floor level and to show boundary clearances; and
  - b. On completion of the building to indicate the height of the finished floor levels, the height of the roof ridge and to show boundary clearances and areas of the site occupied by the building.
- (25) *Dividing Fences Act* - Your attention is directed to any obligations or responsibilities under the *Dividing Fences Act 1991* in respect of adjoining property owner/s which may arise from this application. Any enquiries in this regard may be made to the Crown Lands Division on (02) 8836 5332.
- (26) Prior to the commencement of building work, the following is to be carried out:-
  - a. Submit to Council a "Notice of Intention to Commence Building Work and Appointment of a Principal Certifying Authority" form. Council's 'Notice of Intention to Commence Building Work and Appointment of a Principal Certifying Authority' form is to be used where application is made to Council.
  - b. Ensure detailed plans and specifications of the building are endorsed with a Construction Certificate by Council or an Accredited Certifier. Council's "Construction Certificate Application" form is to be used where application is made to Council. Copies are available on request.

(Vide Section 81A *Environmental Planning & Assessment Amendment Act*)

- (27) A 'Section 73 Compliance Certificate' under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority **prior to the issuing of an Occupation or Subdivision Certificate for the development.**

- (28) Structural engineer's details prepared and certified by a practicing Structural Engineer for all reinforced concrete and structural members being submitted to the Principal Certifying Authority for approval **prior to the issuing of a Construction Certificate.**
- (29) The Principal Certifying Authority **or** Structural Engineer is to also supervise the construction. All Certificates from the supervising Structural Engineer are to be submitted to



the Principal Certifying Authority before an Occupation Certificate is issued stating that all reinforced concrete and/or structural members have been erected in accordance with his/her requirements and the relevant SAA Codes.

- (30) Timber sizes and the framework in general are to conform with the requirements of Australian Standard AS 1684 "Residential timber-framed construction."
- (31) Mechanical ventilation/air conditioning details are to be submitted to Council or the Accredited Certifier for approval **prior to the issuing of a Construction Certificate** and must include the following:-
  - a. The location and size of proposed ductwork;
  - b. The location of equipment;
  - c. The performance characteristics of the proposed motor/s and fan/s;
  - d. The air flow characteristics of the system.

At the completion of work a Certificate from an Accredited Certifier, Mechanical Engineer or other suitably qualified person, to the effect that the ventilation system has been installed and performs in accordance with the provisions of Part F4 of the Building Code of Australia, Australian Standard/New Zealand Standard AS/NZS 1668 "The use of mechanical ventilation and air-conditioning in buildings", Part 1 and Part 2, AS/NZS 3666-2002 and the *Noise Control Act 1975*, must be submitted to the Principal Certifying Authority **before an Occupation Certificate is issued**.

- (32) Fire Resistance Levels of all structural members, including external and internal walls, spandrels, external and internal columns, lift shafts and stair shafts, ventilation, pipe and like shafts, floors and roofs shall comply with the requirements of Specification C1.1 of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.
- (33) All materials used in the building must comply with early fire hazard criteria of Specification C1.10 of the Building Code of Australia.
- (34) Means of access and egress complying with Section D of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.
- (35) The building being provided with both access and sanitary facilities for people with disabilities. The sanitary facilities are to be provided in accordance with F2.4 of the Building Code of Australia (BCA) and are to comply with the requirements of Clause 10 of AS 1428.1-2009. Access is to be provided to and within the building so as to comply with all the requirements of Part D3 of the BCA and the relevant provisions of AS 1428.1-2009. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate**.
- (36) The *Commonwealth Disability Discrimination Act 1992* may apply to this particular proposal. Submissions and/or approval of the application does not imply or confer compliance with this Act. Applicants should satisfy themselves and make their inquiries to the Human Rights and Equal Opportunity Commission.
- (37) Continuous balustrades shall be provided along the side/s of any stairway or ramp, any corridor, hallway, balcony, access bridge or the like, any path of access to a building if:-
  - a. It is not bounded by a wall; and

- b. The change in level is more than one (1) metre, or five (5) risers in the case of a stairway, from the floor or ground surface beneath;

except where specific exemptions are provided in the Building Code of Australia.

Balustrades shall prevent as far as practicable:

- a. Children climbing over or through it; and
- b. Persons accidentally falling from the floor; and
- c. Objects which might strike a person at a lower level falling from the floor surface.

Balustrade heights and designs shall comply with Part D2.16 of the Building Code of Australia and Australian Standard/New Zealand Standard AS/NZS 1170 Part 1 – Structural design actions. Height above nosings of stair treads, landing, corridors and the like shall generally be not less than 865mm.

Details of the method of satisfying these requirements must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

- (38) The building being equipped with a smoke alarm system as required by Table E2.2a of the Building Code of Australia. The system is to satisfy the requirements of Specification E2.2a of the Building Code of Australia and in particular is to comply with the relevant parts of AS 3786-1993 and AS 1670.1-2004. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

- (39) A Fire Safety Certificate (copies available from Council) is to be given to the Principal Certifying Authority prior to applying for an Occupation Certificate or Interim Occupation Certificate and thereafter once in every 12 month period an Annual Fire Safety Statement is to be given to Council. The certificate and statement attest to both the inspection of all essential fire safety measures by a properly qualified person and to the regular maintenance of the fire safety measures. A copy of the Fire Safety Certificate and the Fire Safety Schedule are to be given to the Commissioner of New South Wales Fire Brigades **by the building owner** and copies of these documents are to be prominently displayed in the building. Similarly copies of Annual Fire Safety Statements are also to be given to the Commissioner and displayed in the building.

(Vide clause 153 & Division 3 of the *Environmental Planning & Assessment Regulation 2000*)

- (40) Noise transmission and insulation ratings for building elements being in accordance with Specification Part F5 of the Building Code of Australia.

Details of the method of satisfying this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

- (41) Engineering Design – Basement Excavation

The following engineering details or design documentation shall be submitted to the Principal Certifying Authority (Council or Accredited Certifier) **prior to the issuing of a Construction Certificate:**

- (a) Documentary evidence prepared by a suitably qualified professional geotechnical engineer that confirms the suitability of the site for the proposed excavation and

building, as well as certifying the suitability and adequacy of the proposed design and construction of the building for the site.

- (b) A report shall be prepared by a professional engineer **prior to the issuing of a Construction Certificate**, detailing the proposed methods of excavation, shoring or pile construction including details of vibration emissions and detailing any possible damage which may occur to adjoining or nearby premises due to building and excavation works. Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, are to be fully complied with and incorporated into the plans and specifications for the Construction Certificate.

**A copy of the Engineer's Report is to be submitted to Council, even if the Council is not the Principal Certifying Authority.**

### **DEMOLITION**

- (1) A WorkCover licensed contractor must undertake removal of more than 10 square metres of any bonded asbestos. Removal of any friable asbestos must only be undertaken by a contractor that holds a current friable asbestos removal licence.
- (2) Removal of any asbestos must be undertaken in compliance with the requirements of WorkCover. Refer to their publication "Your Guide to Working with Asbestos."
- (3) Demolition sites that involve the removal of any asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm erected in a prominent visible location of the site to the satisfaction of Council Officers. The sign is to be erected prior to the commencement of demolition works and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility. This will ensure compliance with Clause 259(2)c of the *Occupational Health and Safety Regulation 2001*.
- (4) All asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations (Waste) Regulation 2005*.
- (5) All asbestos laden waste must be disposed of at an approved waste disposal depot (Refer to the Office of Environment and Heritage or Waste Service NSW for details of sites).
- (6) Written notice must be provided to Council and adjoining neighbours at least two working days prior to commencement of any works.

Such written notice is to include the following details:

- Date of asbestos removal; and
- Name, address contact details (including after hours contact telephone number) and WorkCover licence number of the asbestos removal contractor.

Work is not to commence prior to the nominated date.

- (7) Demolition of the building is to be carried out in accordance with the requirements of AS 2601 – 2001, where applicable.
- (8) Hours of demolition work shall be from 7:00am to 5:30pm Mondays to Fridays inclusive, and from 7:00am to 4:00pm Saturdays. No demolition work shall be carried out on Sundays. The owner/builder shall be responsible for the compliance of this condition by all sub-contractors, including demolishers.

- (9) Access to the site is to be restricted and the site is to be secured when demolition work is not in progress or the site is otherwise occupied.
- (10) The demolition site is to be provided with measures to mitigate dust nuisances arising on adjoining sites and roadways. To achieve this, a fence or barrier is to be erected around the site. The construction may be steel mesh which is covered with a suitable filtering medium or such other construction acceptable to Council. An effective program of watering the site is also required to be maintained.
- (11) All demolition and excavation materials are to be removed from the site or disposed of on site using methods that comply with relevant environmental protection legislation.
- (12) When demolition of any existing building is involved, burning of any demolition materials on the site is prohibited.
- (13) Dilapidation surveys are to be carried out by a Practising Structural Engineer, which is to include a full photographic record of the exterior and interior of the buildings at the applicants/owners expense on all premises adjoining the site (**i.e. No. 9 Deane Street and No. 4, 6, 8, 10 and 12 George Street, Burwood**). The survey is to be submitted to Council and the adjoining land owners **prior to the commencement of any works including demolition or excavation**. A further dilapidation survey is also to be carried out and submitted to Council and the adjoining owners **prior to the issue of an Occupation Certificate**. The dilapidation surveys shall be dated accordingly.
- (14) The applicant shall take all necessary precautions to adequately protect adjoining properties during demolition. This shall include the submission to the Principal Certifying Authority of specific details of the protection to be employed **prior to any demolition works commencing**.

### **SUBDIVISION**

- (1) A separate application shall be made for any proposed subdivision of the site. This approval does not infer any approval for subdivision of the development.

### **HEALTH**

#### **Environmental Management:**

- (1) An Environmental Management Plan is to be submitted to Council for approval, prior to the commencement of any works, detailing the control and management methods to be implemented in addressing the following issues during the demolition, excavation and construction phases of the project:
  - Noise and vibration control
  - Dust and odour suppression and control
  - Storm water control and discharge
  - Erosion control
  - Waste storage and recycling control
  - Litter control
  - Construction material storage
  - Truck cleaning methods on site so as to prevent spread of soil and like materials onto Council's roadways

- (2) A car wash area / bay is to be provided and be graded and drained to a waste water disposal system in accordance with the requirements of Sydney Water.
- (3) Mechanical ventilation and or air conditioning systems and equipment are to be designed and installed in locations that do not cause any noise nuisance or disturbance to near by residential or commercial premises. Details of the type of equipment locations and any noise attenuation treatment are to be submitted to Council for approval prior to the issue of the Construction Certificate.
- (4) Separate development application(s) are to be submitted for the fit out of any part of the premises as a commercial use.

#### **Waste Management:**

- (1) A waste cupboard or other storage area is to be provided within each dwelling which is of sufficient size to hold a single day's waste and to enable source separation of general waste, recyclables and compostable materials.
- (2) A separate area is to be nominated on the site for the temporary storage of unwanted large bulky goods and items awaiting disposal either privately or through Councils clean up service.
- (3) An area is to be nominated on the site to provide the capability for onsite communal composting. The location and design are to be in accordance with the controls set out on p.20 of Council's Waste Management DCP No. 17.
- (4) Both residential and commercial garbage and recycling storage areas are to be:
  - a. Supplied with both **hot and cold** water;
  - b. Paved with impervious floor materials;
  - c. Coved at the intersection of the floor and the walls;
  - d. Graded and drained to a floor waste which is connected to the sewer in accordance with the requirements of Sydney Water;
  - e. Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
  - f. Fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.
  - g. Suitable signage is to be installed in each waste service room encouraging the separation of recyclables from the general waste stream.
- (5) Manufacturer's details and specification for the waste chute are to be submitted to Council for approval prior to the issue of a Construction Certificate.
- (6) Certification is to be provided by the installer of the chute system prior to the occupation of the building certifying that the Chute has been installed in accordance with the manufacturer's specification.
- (7) The garbage chute room at each level is to be of sufficient size to accommodate sufficient mobile bins (MGB'S) / crates to store recyclable material generated over the entire period between collection days.
- (8) Manufacturer's details and specifications for the installation, fire suppression and health and odour control measures for the garbage chute are to be submitted to Council for approval prior to the issue of the Construction Certificate.

- (9) Suitable signage is to be installed in each level of the chute waste service rooms encouraging the separation of recyclables from the general waste stream.
- (10) A Caretaker is to be appointed for the development who will have ongoing responsibility for the proper management of the waste and recycling services
- (11) All waste collections are to be carried out from within the building (not from the kerb side).
- (12) The applicant shall provide to Council a legally drafted agreement at their own expense in the form approved by Council which gives right of access and absolves Council and / or any of its waste collection contractors from any damage or injury that may arise from the onsite collection of waste and recyclables.
- (13) The vehicular access to the basement waste storage area is to be designed to allow for access including forward driving and reversing into the collection bay by a fully laden waste and / or recycle collection vehicle.
- (14) The building access road and loading dock is to be designed to enable a fully laden waste collection vehicle to be able to access the site and carry out collections within the building.
- (15) Residential and commercial waste and recycling collections are to be carried out in a manner and at times which do not cause a noise nuisance to the immediate or nearby residents.

*Note;* Council reserves the right to issue a direction under the Protection of the Environment Operations Act to address any noise or other nuisance complaints.

- (16) **Prior to the issue of the Construction Certificate**, the applicant is to arrange with Council's Environment and Health Section the issue of the appropriate number of garbage and recycling bins and payment of the necessary fees to enable commencement of the waste and recycling service.

## **ENGINEERING**

- (1) Stormwater runoff from all roof and paved surfaces shall be collected and discharged by means of a gravity pipe system to:-
  - a. *Council's drainage system located in Marmaduke Street*
- (2) A detailed drainage design shall be submitted to the Principal Certifying Authority.
  - a. The design and calculations shall indicate the details of the proposed method of stormwater disposal and shall be prepared by a competent practicing hydraulic/civil engineer in accordance with Council's Stormwater Management Code.
  - b. Allowance shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property.
  - c. Overflow paths shall be provided to allow for flows in excess of the capacity of the pipe/drainage system draining the site, as well as from any on-site stormwater detention storage.

- d. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering **prior to the issuing of a Construction Certificate.**

(3) Details and calculations shall be prepared by a competent practicing hydraulic/civil engineer. They shall include:

- a. a catchment plan,
- b. plans showing proposed and existing floor, ground and pavement levels to AHD,
- c. details of pipelines/channels showing calculated flows, velocity, size, materials, grade, invert and surface levels,
- d. details and dimensions of pits and drainage structures,
- e. hydrologic and hydraulic calculations,
- f. details of any services near to or affected by any proposed drainage line,
- g. any calculations necessary to demonstrate the functioning of any proposed drainage facility is in accordance with Council's requirements.
- h. The depth and location of any existing stormwater pipeline and/or channel being connected to shall be confirmed by the applicant on site. Certification of such is to be provided to Council prior to the release of the construction certificate.

The details and calculations are to be reviewed by Council or an Accredited Certifier - Civil Engineering, **prior to the issuing of a Construction Certificate**

(4) On-site stormwater detention storage shall be provided in conjunction with the stormwater disposal system.

- a. This storage shall be designed by a competent practicing hydraulic/civil engineer in accordance with Council's Stormwater Management Code and submitted to the Principal Certifying Authority.
- b. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering, **prior to the issuing of a Construction Certificate.**

(5) The following matters shall apply to the stormwater drainage works listed in the Table of Fees:-

- a. The stormwater drainage works for stormwater connection to Council drainage system consist of reconstruction of Council's existing pit at Marmaduke Street
- b. An engineering design and calculations prepared by a competent practicing hydraulic/civil engineer in accordance with Council's Stormwater Management Code shall be submitted to the Principal Certifying Authority.
  - (i) The depth and location of all services within the area that would be affected by the construction of the stormwater pipe (i.e. gas, water, sewer, electricity, telephone, traffic lights, etc.) shall be confirmed by the applicant on site and are to be included on the design drawings.
  - (ii) Any adjustments required will be at the applicant's expense. The relevant authority's written consent for any adjustments or works affecting their services shall be obtained and submitted to the Principal Certifying Authority, prior to

construction commencing.

- (iii) All pipes shall be 375mm diameter reinforced concrete spigot and socket with rubber ring joints. A Council standard pit shall be constructed in the street outside the property boundary for the property's stormwater to connect to. The stormwater works described above shall be constructed at the applicant's expense. The applicant shall pay the contribution listed in the Table of Fees for Council to construct the stormwater works described above.

- c. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a Certificate verifying that this condition has been complied with, **prior to the issuing of a Construction Certificate.**

- (6) The stormwater works on the development property and connection to Council's stormwater system are to be inspected during construction by a competent practicing hydraulic/civil engineer. The inspections are to be carried out at the stages of construction listed in the following schedule. A compliance Certificate verifying that the construction is in accordance with the approved design, this development consent and satisfies the relevant Australian Standard is to be submitted to the Principal Certifying Authority before proceeding beyond the relevant stage of construction.

#### SCHEDULE OF CONSTRUCTION STAGES REQUIRING INSPECTION

- a. Following placement of pipe bedding material. Confirm trench/pipe location, adequacy of depth of cover, bedding material and depth.
- b. Following joining of pipes and connection to Council's stormwater system.
- c. For on-site detention systems:-
  - (i) Following set out of detention tank/area to confirm area and volume of storage.
  - (ii) Following placement of weep-holes, orifice and/or weir flow control, outlet screen and overflow provision.
- d. Following backfilling. Confirm adequacy of backfilling material and compaction.

- (7) Following completion of all drainage works:-

- a. Works-as-executed plans, prepared and signed by a registered surveyor, shall be prepared. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels) and finished ground and pavement surface levels. These plans are to be reviewed by the competent practicing hydraulic/civil engineer that inspected the works during construction.
- b. The Principal Certifying Authority is to be provided with a Certificate from a competent practicing hydraulic/civil engineer. The Certificate shall state that all stormwater drainage and related work has been constructed in accordance with the approved plans and consent conditions as shown on the work-as-executed plans, prior to the issuing of an Occupation Certificate.

- (8) A Positive Covenant under section 88E of the Conveyancing Act shall be created on the title of the property(s) detailing the

- i) *Overland surface flow path*
  - ii) *Finished pavement and ground levels*



- iii) Prevention of the erection of any structures or fencing.*
- iv) On-site Stormwater Detention system*
- v) Pump and rising main system*

incorporated in the development. The wording of the Instrument shall include but not be limited to the following:-

- a. The proprietor of the property agrees to be responsible for keeping clear and the maintenance of the facilities consisting of:-
  - i) The overland surface flow path*
  - ii) Finished pavement and ground levels*
  - iii) Prevention of the erection of any structures or fencing*
  - iv) On-site Stormwater Detention system*
  - v) Pump and rising main system*
- b. The proprietor agrees to have the facilities inspected annually by a competent practicing hydraulic/civil engineer.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean repair and maintain in good working order the facilities in or upon the said land; and recover the costs of any such works from the proprietor.
- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from failure of any component of the facilities.

The applicant shall bear all costs associated with the preparation of the 88E Instrument. The wording of the Instrument shall be submitted to, and approved by Council prior to lodgement at the Land and Property Information. Evidence that the Instrument has been registered at the Land and Property Information shall be submitted to Council, prior to issuing of an Occupation Certificate.

- (9) The pump system is only permitted for the drainage of the basement areas where the finished slab is below the ground level. The following conditions are to be satisfied:-
  - a. A pump and rising main design shall be submitted to the Principal Certifying Authority and shall satisfy the following conditions:-
    - (i) The holding tank for the pump shall be capable of storing runoff from a one hour, 1 in 100 year ARI storm event.
    - (ii) The pump system shall consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the lower of the allowable on site detention discharge rate, or the rate of inflow for the one hour duration storm.
    - (iii) An overflow, flashing light and audible alarm are to be provided, to warn of pump failure.
    - (iv) Full details of the holding tank, pump type, discharge rate and the delivery line size are to be documented.
    - (v) Any drainage disposal to the street gutter, from a pump system must have a stilling sump provided at the property line, and connected to the street gutter by a suitable gravity line.

- (vi) The capacity of the stilling sump and outlet pump shall be determined and verified by calculations which are to be documented.
  - b. Pumping system details shall be submitted to Council or an Accredited Certifier - Civil Engineering, **prior to the issuing of a Construction Certificate.**
  - c. The applicant shall submit written evidence to the Principal Certifying Authority that a contract has been let for the regular maintenance of the pump system for a minimum period of 12 months. Information to be submitted to the Principal Certifying Authority prior to issuing of an Occupation Certificate.
- (10) All activities and works external to the site, or that affect public roads, are to be carried out in accordance with Council's Policies including but not limited to the Code for Activities Affecting Roads, Rubbish Skips Policy, Work Zone Policy and Temporary Road Closure (Including Standing Plant) Policy.
- (11) A road-opening permit shall be obtained for all works carried out in public or Council controlled lands. Restoration of landscaping, roads and paths shall be carried out by Council at the applicant's expense in accordance with Council's restoration rates. The applicant or any contractors carrying out works in public or Council controlled lands shall have public liability insurance cover to the value of \$20 million, and shall provide proof of such cover to the Principal Certifying Authority prior to carrying out the works.
- (12) Spoil and building materials shall not be placed, stored, thrown or caused to fall within any public roadway or footpath. Waste containers shall be placed in accordance with Council's Rubbish Skips Policy. Contact Council for a list of approved skip bin suppliers.
- (13) The builder is to ensure footpaths and roads affected by construction works are kept safe and prevent any damage to Council property. The builder shall erect and maintain where necessary approved hoardings, barricades, warning signs and night warning lamps to ensure public safety. Pedestrian access across the footpath must be maintained at all times.
- (14) The following matters shall apply to the damage deposit listed in the Table of Fees:-
- a. This deposit is refundable if no damage occurs. Any damage caused will be repaired at Council's restoration rates, at the applicant's expense. All or part of the deposit will be forfeited to cover damage to Council's property during the course of demolition and/or construction.
  - b. Council will only carry out two inspections of the Council's footpath, kerb and gutter, stormwater drainage system and roadway, prior to works commencing and at the completion of all work covered by this consent. Council is aware that damage may be caused by individual contractors that culminate in the damage inspected at Council's final inspection. The applicant is responsible for attributing any part of the damage to their individual contractors. Council will not refund any part of a damage deposit until the completion of the work covered by this consent.
- (15) The following matters apply to the construction of the proposed vehicular crossing listed in the Table of Fees:-
- a. A vehicular crossing 5.5 m wide to Marmaduke Street shall be constructed by the Applicant/Council at the applicant's cost.
  - b. The cost of any necessary adjustments to public utility services is not included, and shall be paid by the applicant to the relevant authority prior to Council commencing

the work.

- c. The driveway shall be 1m clear of any pits, lintels, poles and 2m clear of trees in the road reserve.
  - d. All redundant vehicular crossings shall be removed and replaced with kerb and gutter and footpath at no cost to Council.
- (16) Internal driveway levels shall be designed and constructed to conform with existing footpath and road profiles such that vehicles are not damaged while accessing the property. Council footpath and road profiles will not be altered for this purpose.
- (17) The applicant is to have prepared a longitudinal section of the proposed vehicular ramp access, drawn at 1:25 natural scale.
- a. The longitudinal section shall be prepared by a competent practicing civil engineer in accordance with AS 2890.1.
  - b. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering **prior to the issuing of a Construction Certificate.**
- (18) Temporary measures shall be provided during demolition, excavation and/or construction to prevent sediment and polluted waters discharging from the site.
- a. An erosion and sediment control plan showing such measures shall be prepared by a competent practicing hydraulic/civil engineer in accordance with Supplement 10 of Council's Stormwater Management Code.
  - b. The erosion and sediment control plan is to be reviewed by Council or an Accredited Certifier - Civil Engineering **prior to the issuing of a Construction Certificate.**
- (19) All demolition and excavation materials are to be removed from the site or disposed off site using methods that comply with relevant environmental protection legislation.
- (20) Vehicles removing demolished materials from the site shall access and depart from the site through Parramatta Rd, Shaftesbury Rd and Waimea Street. Vehicles involved in removing materials from the site shall be limited to an 8 tonne gross weight per axle.

#### **ADDITIONAL DRAINAGE CONDITIONS**

- (1) The On-Site-Detention under Final Flood Level must satisfy the following criteria;
  - The storage is self cleansing; the base shall have 2% fall towards outlet.
  - The storage can readily be inspected from the surface for silt and debris.
  - The storage is well ventilated and not cause the accumulation of noxious odours
  - Adequate access is provided to the storage basin for regular cleaning and maintenance purposes.
- (2) The outflow control structure of the OSD shall be designed to control variable outflow rate. Storage outflows are to be controlled to ensure the full range of ARI (2 to 100 yr) occurs. It is envisaged that the discharge control pit is required to be provided with low level and high level outlets with different orifices diameters.
- (3) Basement drainage and stormwater rising main discharge to Council drainage system shall be provided with proper design and documentation.
- (4) The stormwater drainage analysis and design report including hydrologic and hydraulic calculations shall be submitted to Council for its review. For Quality Control Purpose, Council requires the drawings and design calculations to be certified by a suitably

qualified NPER civil/hydraulic engineer. A set of all A1-size drawings shall be submitted.

### **EXCAVATION**

- (1) All excavations and backfilling associated with the erection or demolition of buildings shall be carried out in a safe and careful manner and in accordance with appropriate professional standards. All necessary planking and strutting shall be of sufficient strength to retain the sides of excavations. A Compliance Certificate verifying the suitability of Structural details of proposed shoring is to be submitted to the Principal Certifying Authority before excavation.
- (2) All excavations associated with the erection or demolition of the building are to be properly guarded and protected to prevent them from being dangerous to life or property.
- (3) Where soil conditions require it:
  - a. retaining walls must be provided so as to prevent soil movement; and
  - b. adequate provision must be made for drainage.
- (4) If an excavation associated with the erection or demolition of a building extends below any level of the base of the footings of a building or other structure on an adjoining allotment of land, the person causing the excavation to be made:
  - a. must preserve and protect the building or other structure from damage and rectify any damage caused by any such excavation, and
  - c. if necessary, must underpin and support the building or other structure in an approved manner, and
  - d. must, at least 7 days before excavation below the level of the base of the footings of a building or other structure on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to that owner.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

- (5) If the work involved in the erection or demolition of a building:
  - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b. building involves the enclosure of a public place,a hoarding or fence must be erected between the work site and the public place.

If necessary, an overhead awning shall be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding where it encroaches upon or extends over a public place shall be subject to a separate application to Council prior to the hoarding being erected and shall be

subject to such fees as specified in Council's Fees and Charges.

### **GROUND ANCHORS**

The Applicant shall also comply with all the following conditions that apply to the protection of Council's public infrastructures.

- (1) Should the applicant require the use of temporary ground anchors to shore the bulk excavation within the public road, an NPER Registered Structural Engineer's certificate along with certified plans showing the details and extent of work shall be submitted to Council for its record. The following conditions to be complied with:
  - a) The contractor shall be responsible to obtain and submit to Council a written authority from all public utility authorities that they have no objection in regards to the installation of temporary ground anchors, prior to works commencing.
  - b) The contractor shall be responsible for any injury or damage either to persons or property due to the presence or failure of the supporting structure on the public way and the contractor shall indemnify the Council against all claims that may arise from the installation of the supporting structure. In this regard the contractor shall provide written evidence of public liability insurance cover to the minimum value of \$20 million, with Council named in the insurance policy, prior to work commencing.
  - c) The anchors shall be installed in accordance with the manufacturer's instructions.
  - d) The construction of ground anchors shall be of a temporary nature only and a written undertaking shall be given that the ground anchors are temporary only and shall be de-stressed after final lateral supports are in place. The written undertaking is to be provided to Council, prior to work commencing.
  - e) Council may unilaterally use the damage deposit for the demolition and removal of the shoring elements constructed within the public road including the repair/reconstruction of any other associated damage to Councils infrastructure, it be necessary due to non-compliance with these conditions.
  - f) All shoring with the exception of the released temporary ground anchors shall be completely removed from the public road to a depth of 2.5m on completion. The void shall be backfilled by suitable materials and compacted.
  - g) All shoring including ground anchors are to be certified by a practicing professional structural engineer. Certification is required as follows:
    - i) That the proposed shoring and anchor scheme is capable of supporting the public road, to be submitted prior to work commencing.
    - ii) Certification that the shoring and anchor scheme has been adequately constructed, following installation.
    - iii) Final certification that the anchors have been de-stressed and all shoring with the exception of the anchors have been removed to a depth of 2.5m, on completion following de-stressing of the anchors.
  - h) Council's footpath and roadway are to be kept safe for the passage of motorists and pedestrians at all times. Closure of any part of the public thoroughfare shall only be carried out with the approval of Council's Traffic Engineer.
  - i) All stockpiled shoring materials and equipment shall be kept solely within the private property and not obstruct the footpath or roadway at any time.

- j) All earth and rock anchors shall be released before the completion of building work.

### **PUBLIC DOMAIN IMPROVEMENT**

- (1) The applicant shall provide a high quality Public Domain and Streetscape Improvement elements and finishes on all publicly accessible areas at the properties Dean & Marmaduke Street frontages in accordance with Council's Public Works Element Manual.

### **Attachments**

- 1. GMU Reports 16 November 2012 & 8 February 2013