

JOINT REGIONAL PLANNING PANEL SYDNEY EAST REGION

JRPP No	2012SYE111
DA Number	201200528
Local Government Area	Marrickville
Proposed Development	To partially demolish the rear of the existing building, construction of a new building form and adaptively reuse of the remainder of the existing building for two (2) levels of bulky goods tenancies with off street carparking for up to 301 cars, erection of signage, boundary adjustments to provide a slip lane from the Princes Highway into Smith Street and the widening of Smith Street on the northern side
Street Address	728-750 Princess Highway, Tempe
Applicant/Owner	Urbis Pty Ltd / The Trust Company Limited
Number of Submissions	Nine (9) submissions
Recommendation	Deferred Commencement
Report by	James Groundwater – Development Assessment Planner

Assessment Report and Recommendation

Synopsis

Application to partially demolish the rear of the existing building, construction of a new building form and adaptively reuse of the remainder of the existing building for two (2) levels of bulky goods tenancies with off street carparking for up to 301 cars, erection of signage, boundary adjustments to provide a slip lane from the Princes Highway into Smith Street and the widening of Smith Street on the northern side.

The application was notified in accordance with Council's notification policy and nine (9) submissions were received. Those submissions raised concerns relating to increase traffic, noise, parking and the removal of existing on site vegetation, which have been addressed within this report.

The development will result in a departure with the floor space ratio development standard contained within Clause 4.4 of Marrickville Local Environmental Plan 2011. The application was accompanied by a written objection pursuant to Clause 4.6 of Marrickville Local Environmental Plan 2011 seeking to vary the subject development standard. The objection is considered to be well founded in this instance, as the development will still satisfy the relevant objectives of the floor space ratio development standard.

The proposed development is considered to generally comply with the objectives and controls contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The proposal is considered to result in a form of development which is consistent with the surrounding industrial uses and is consistent with objectives of the relevant zone.

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

PART A - PARTICULARS

Location: The subject site is located on the north eastern corner of the Princes Highway and Smith Street, Tempe (adjacent to IKEA).

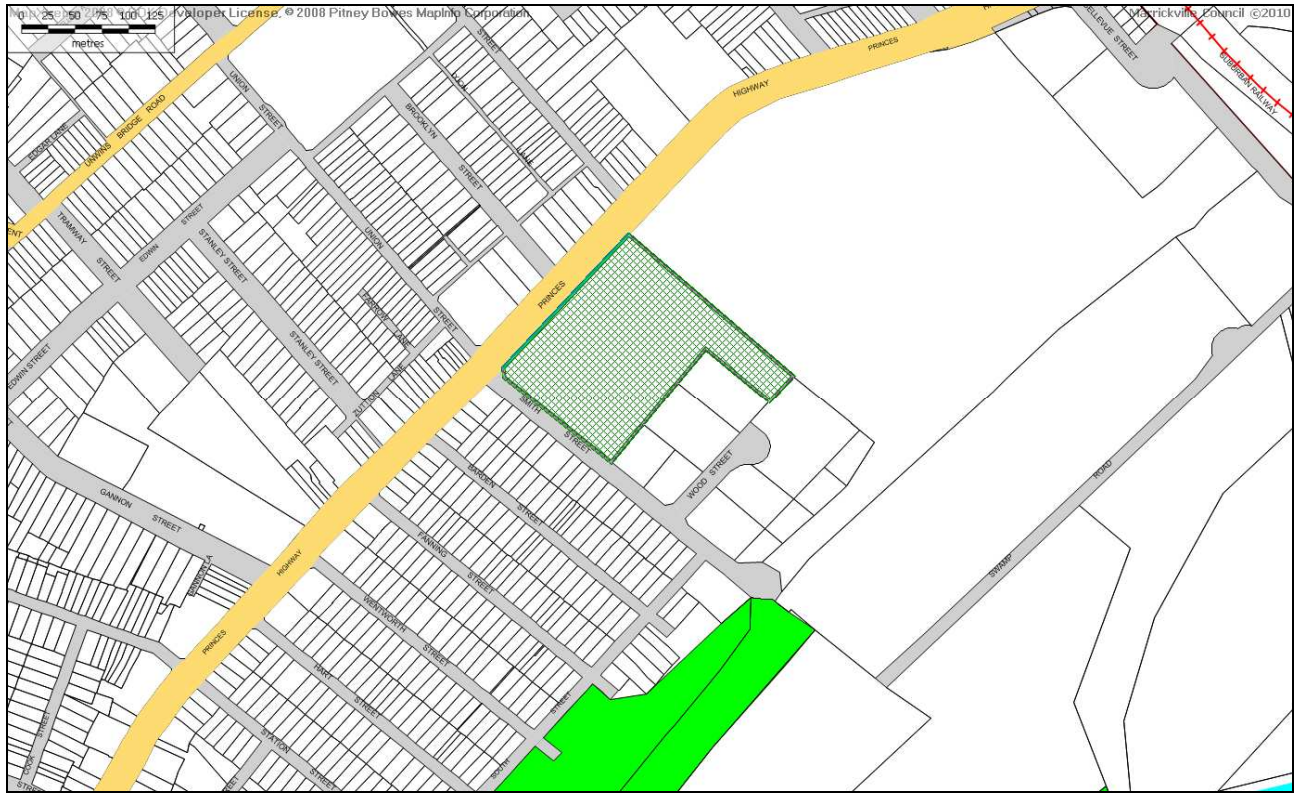


Image 1: Location Map

D/A No: 201200528

Application Date: 27 November 2012 (Additional information submitted on 19 & 20 February 2013, 19 March 2013 and 17 June 2013)

Proposal: To partially demolish the rear of the existing building, construct new building form and adaptively reuse the remainder of the existing building for two levels of bulky goods tenancies with off street carparking for up to 301 cars, erect signage, subdivide the land to provide a slip lane from the Princes Highway into Smith Street and widening Smith Street on the northern side.

Applicant: Urbis Pty Ltd

Estimated Cost: \$30,470,000

Zoning: IN2 - Light Industrial

PART B - THE SITE AND ITS CONTEXT

Improvements: Existing one (1) part two (2) storey warehousing and distribution centre



Image 2: The Site (the Princes Highway elevation)



Image 3: View of the existing rear loading dock



Image 4: View of the existing rear parking area and rear of the adjoining site



Image 5: View of the northern side setback of subject site towards the Princes Highway

Current Use: Warehouse and Distribution Centre

Prior Determinations: Determination No. 12799, dated 22 December 1989, approved an application to carry out alterations and additions to the premises involving the demolition of the existing detached outbuildings and part of the main building and its replacement with a two-storey building to be used for general stores, printing, mail and freight, archives, high security store, furniture storage, central monitoring service, amenities and support facilities and to erect a building of four (4) levels to be used for parking, storage and offices in association with the main building.

Determination No. 13615, dated 20 March 1991, approved an application to carry out alterations and additions to the premises for use for the purposes of general stores, printing, mail and freight, high security storage, general offices and amenities.

Determination No. 200300330, dated 15 October 2003, granted deferred commencement consent to an application to carry out alterations and additions to the premises and to use the premises for the warehousing of clothing with associated offices and to erect associated signage. The applicant satisfied the matters referred to in Part A and the Determination became operative on 11 November 2003.

Determination No. 200900380, dated 25 November 2009, approved an application to carry out alterations to the premises and use the southern part of warehouse for the storage and distribution of printed material, such as envelopes/brochures.

Environment: The site adjoins IKEA (Bulky Goods Premises) to the north, industrial and warehousing development to the east and is opposite residential to the south.

PART C - REQUIREMENTS

1. Zoning

Is the proposal permissible under zoning provisions? No*

**The subject site is a Schedule 1 site, which permits bulky goods premises as an additional use.*

2. Development Standards (Mandatory Requirements):

Type	Required	Proposed
Floor Space Ratio (max.)	0.95:1	1.072:1

3. Departures from Council's Codes and Policies:

Type	Required	Proposed
Parking	214	300 (<i>excluding loading</i>)

4. Community Consultation:

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

Submissions: Nine (9) submissions

5. Other Requirements:

ANEF 2033 Affectation: 25-30 ANEF

Marrickville Section 94/94A Contributions Plan 2004

Environmental Planning and Assessment Act 1979

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 64 – Advertising and Signage

State Environmental Planning Policy (Infrastructure) 2007

Roads Act 1993

PART D - ASSESSMENT

1. The Site and Surrounds

The subject site is located on north-eastern corner of the Princes Highway and Smith Street, Tempe. The site is known as 728-750 Princes Highway and comprises of Lot 2 in Deposited Plan 803493. The site is irregular in shape and has a site area of approximately 20,400sqm.

The subject site is currently occupied by a one (1) part two (2) storey industrial building. The Princes Highway façade is listed as a heritage item within Marrickville Local Environmental Plan 2011 and is known as part of Westpac Stores Department and Penfolds Wine Cellars (former). To the rear of the Princes Highway façade is an open plan rendered brick warehouse, divided into bays with external piers and steel trusses supporting the saw toothed roof structure above.

The northern portion of the ground floor level and the entire first floor level of the industrial complex is used for the warehousing of clothing with associated offices and the southern portion of the ground floor level of the industrial complex is used for the storage and distribution of printed material.

The Smith Street elevation of the building includes the same brick façade as the Princes Highway along part of the elevation with windows at ground and first floors, with the remaining section consisting of pre-cast concrete panels. The Smith Street side setback currently contains a number of mature trees, which provide a form of green screening of the side elevation.

Vehicle access is currently provided to site via the Princes Highway and Smith Street, which leads to a rear loading dock and parking area.

The site is surrounded by various existing industrial development with low scale residential development located on the southern side of Smith Street. IKEA directly adjoins the site to the northeast.

2. The Proposal

Approval is sought to partially demolish the rear portion of the existing industrial building, construction of a new infill building and adaptively reuse the existing heritage portion of the building for two (2) levels of bulky goods tenancies with off street carparking for up to 300 cars, including the erection of signage, boundary adjustments to provide a slip lane from the Princes Highway into Smith Street and the widening of Smith Street along the southern boundary of the site.

The proposal has a total gross floor area of approximately 21,356sqm (excluding excess parking), with a total leasable floor area of approximately 15,832sqm. The proposed development includes the provision of large handling areas adjoining the delivery loading dock for the loading and unloading of goods for customers, with direct vehicle access to the proposed undercroft parking. The layout of the development enables direct internal access from the tenancies to the loading areas for the pick up of goods via the provision of two (2) internal goods lifts and two (2) travelators. The individual tenancy fit outs and internal storage areas will be subject of future development applications.

The development includes the provision of up to 301 car parking spaces (including 32 accessible car parking spaces), 10 motorcycle parking spaces and up to 150 bicycle parking spaces. The proposal includes a boundary adjustment and dedication of land to Council to accommodate a new slip lane along the Princes Highway (approximately 50 metres) for left turns into Smith Street and the widening of Smith Street along the northern side to provide an additional lane for right and left turning into and out of the site. The proposed works also include the relocation of the existing bus stop located adjacent to the site on the Princes Highway and the construction of a shared pedestrian and bicycle pathways along the Princes Highway frontage.

The application seeks consent for the erection of the following business identification signage:

- One (1) x Blade pylon sign (10.25 metres x 2.97 metres) approximately 10.5 metres in height
- One (1) x Front façade sign (11.6 metres x 2.3 metres)
- Nine (9) x Banner signs (2 metres x 6 metres)
- Directional and information signage within the parking areas

The application seeks approval to operate the development seven (7) days a week within the following hours:

Mondays – Saturdays (excluding Thursdays)	9.00am to 6.00pm
Thursdays	9.00am to 9.00pm
Sundays and Public Holidays	10.00am to 6.00pm

A copy of the site plan and elevations of the proposed development submitted with the application are reproduced below:



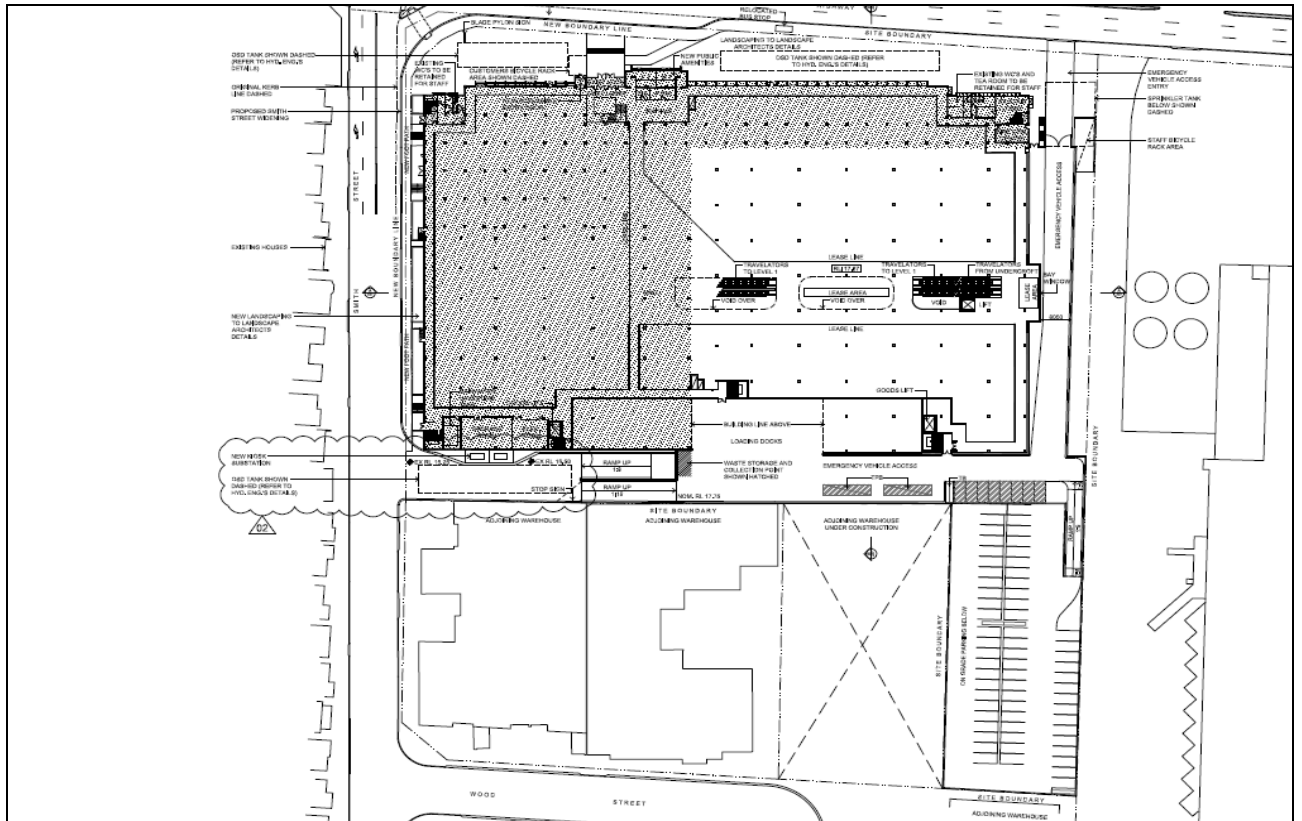


Image 7: Proposed Ground Floor Plan

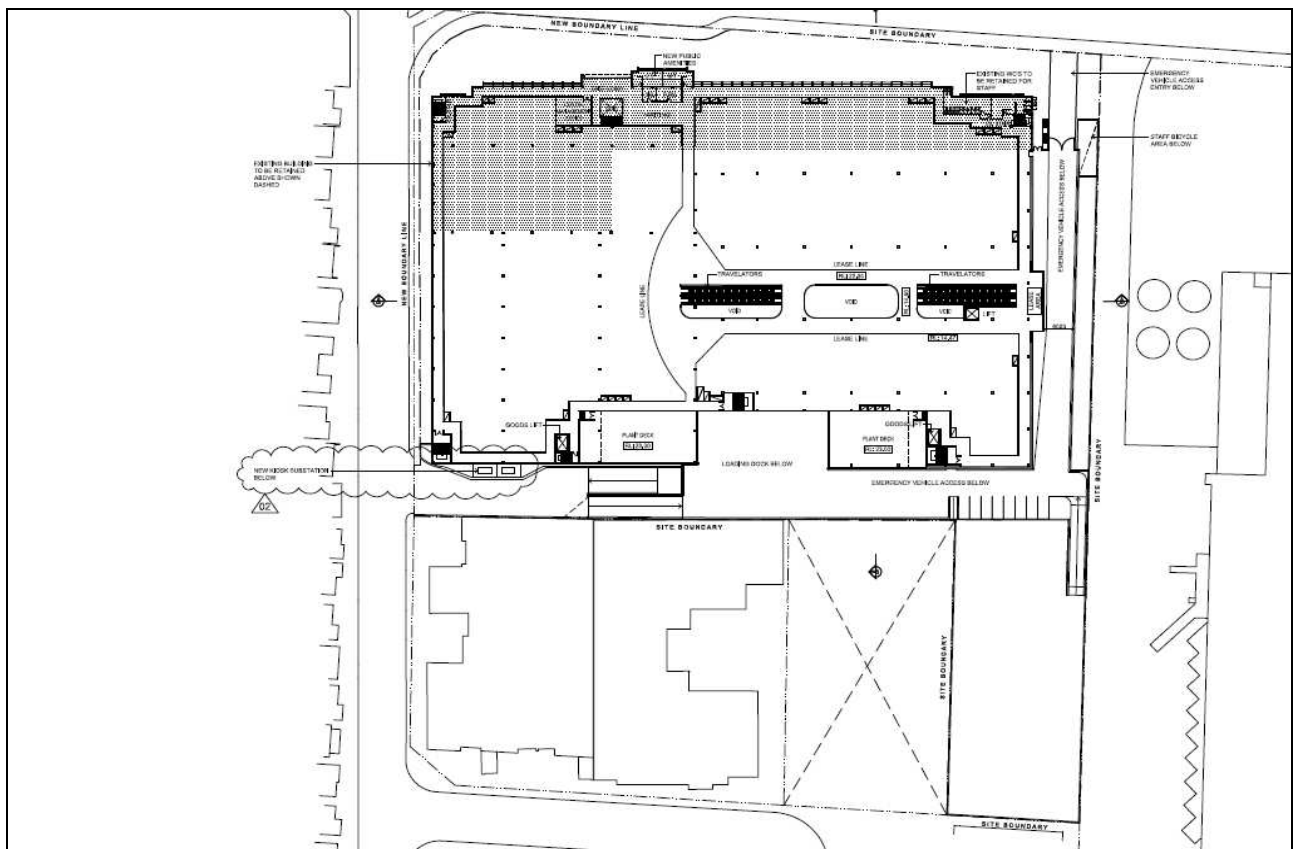


Image 8: Proposed First Floor Plan

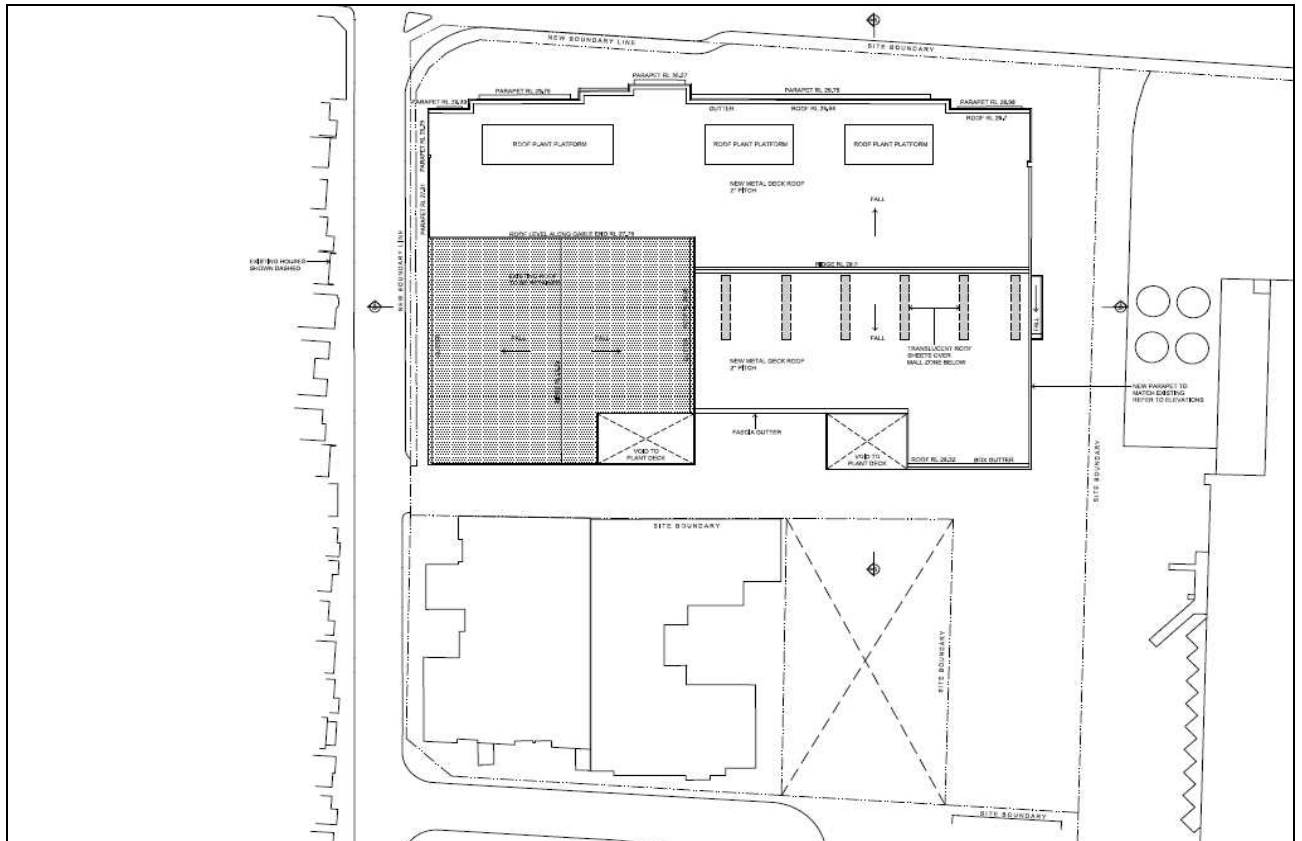


Image 9: Proposed Roof Plan

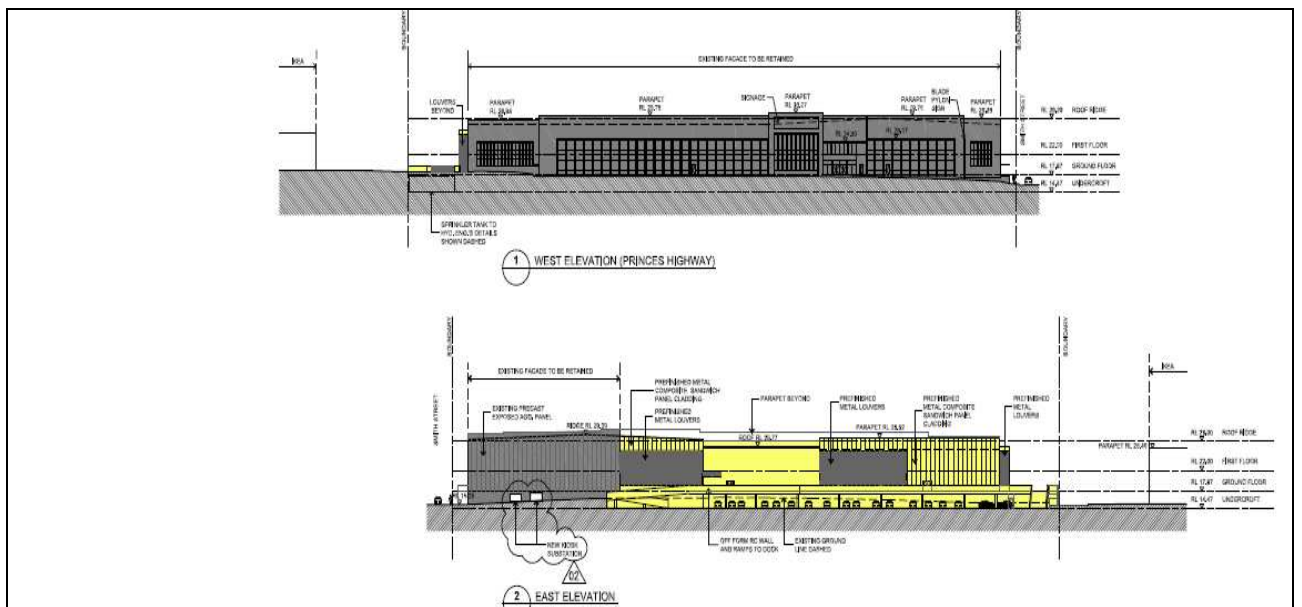


Image 10: Western and Eastern Elevations Plan

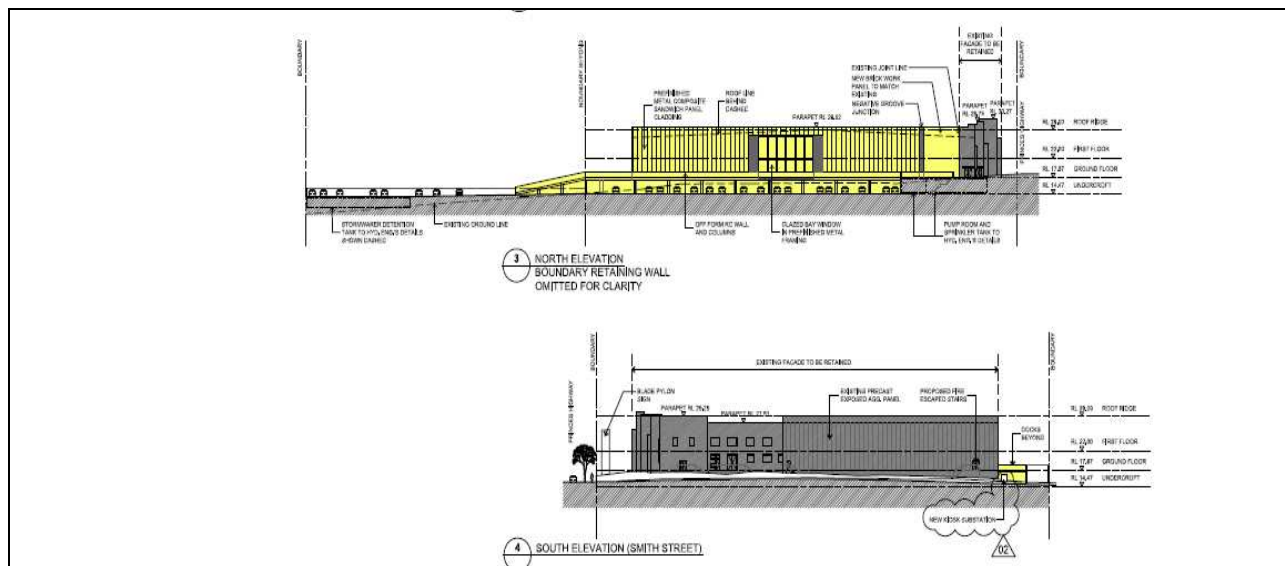


Image 11: Northern and Southern Elevations Plan

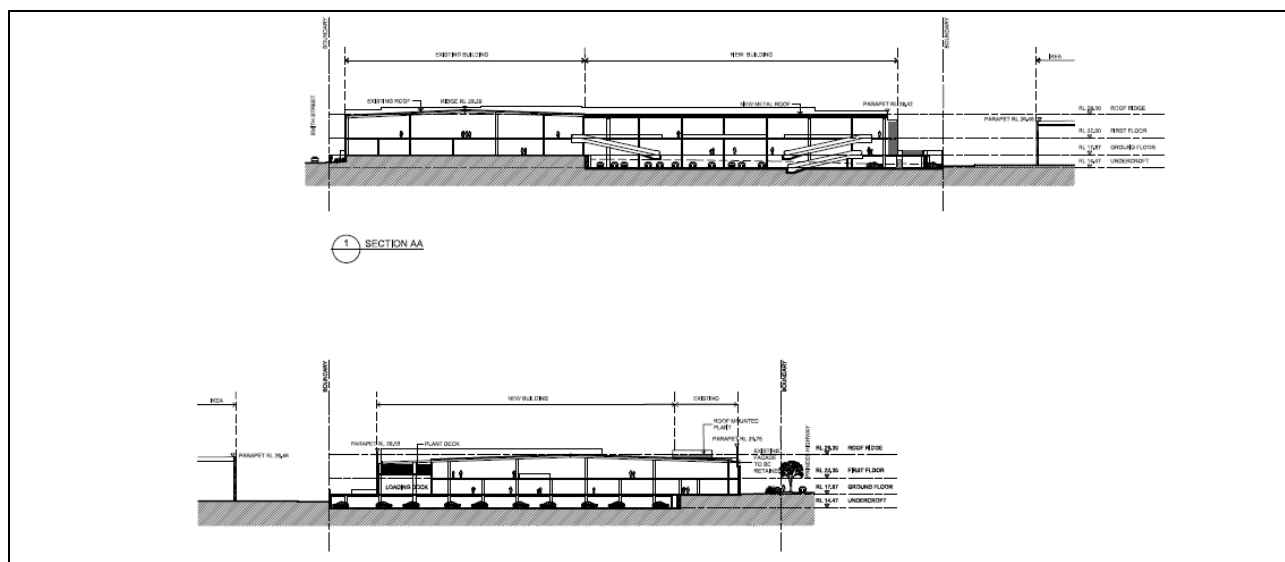


Image 12: Section Plan

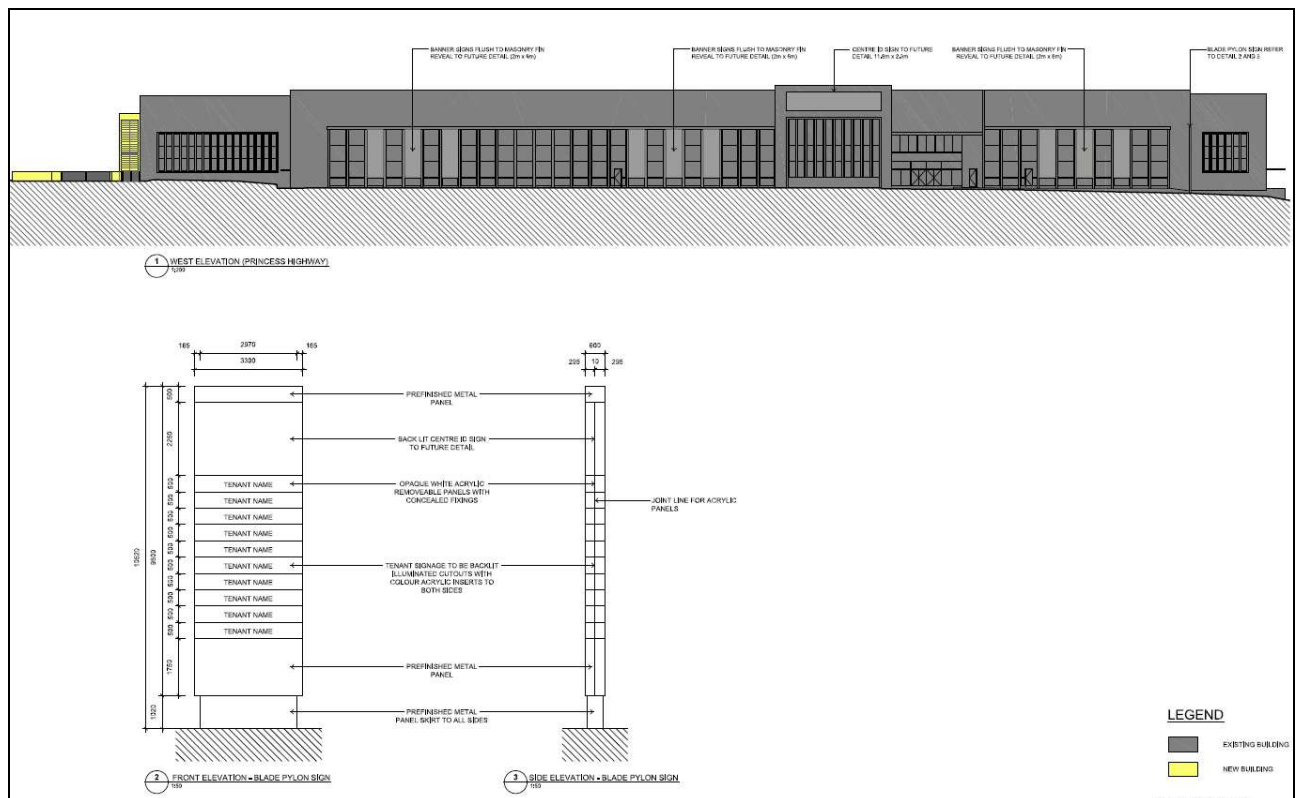


Image 13: Proposed Signage Plan

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Where a site is found to be contaminated, SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP), as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

Pursuant to SEPP 55, the NSW Department of Planning and Infrastructure's guidelines *"Managing Land Contamination - Planning Guidelines for SEPP 55 - Remediation of Land"* (the Guidelines) and Marrickville Development Control Plan 2011 (MDCP 2011), the applicant submitted a Detailed Site Investigation, prepared by Coffey Environments Australia Pty Ltd, dated 17 June 2013. That report concluded that the site is suitable for the proposed development, subject to the appropriate removal of underground storage tanks and the surrounding subsurface validated in accordance with the *Guidelines for Assessing Service Station Sites (NSW EPA, 1994)*.

In regards to the USTs, the report concluded that:

"Whilst this investigation did not identify soil and groundwater contamination arising from the USTs likely to be present on the site, it is important to note that commonly USTs and their appurtenances leak and introduce subsurface impact in their immediate surrounds."

The report also identified the site as potentially being affected by Acid Sulfate Soils (ASS) and recommended that additional assessment be carried out to confirm the presence or absence of ASS in locations on the site that will be subject to excavation as part of the proposed development.

Subject to the imposition of conditions requiring the appropriate removal of the USTs and undertaking additional investigations to confirm the presence or absence of ASS in accordance with the conclusion and recommendations contained within the Detail Site Investigation report, dated 17 June 2013, before the release of any Construction Certificate, the application is considered acceptable in this regard.

4. State Environmental Planning Policy No. 64 - Advertising and Signage

State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64) contains aims and objectives for the assessment of signage.

The application seeks consent for the erection of the following business identification signage:

- One (1) x Blade pylon sign (10.25 metres x 2.97 metres) approximately 10.5 metres in height;
- One (1) x Front façade sign (11.6 metres x 2.3 metres);
- Nine (9) x Banner signs (2 metres x 6 metres); and
- Directional and information signage within the parking areas.

Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage has been considered against the assessment criteria contained within Schedule 1.

Character of the area – The signage is considered compatible with the existing and future desired character of the area. The scale of the proposed signage is considered proportionate to the scale of the existing development and typical of similar centres. The proposed pylon sign is approximately 10.5 metres in height and is similar in height to the existing pylon sign on the property.

Special Areas – The proposed signage does not adversely degrade or detract from the visual quality or amenity of the area as the proposed identification signage is considered to be integrated well into the subject building.

Views and Vistas – The proposed development does not compromise or obscure any views or vistas. The visual impact of the signage is considered to be minimal as the majority of the signage will replace existing signs.

Streetscape, setting or landscape – The proposed scale, proportion and form of the signage is considered appropriate for the building and area, whilst contributing to the visual interest of the streetscape.

Siting and Building – The proposed signage is considered consistent to the scale and proportion of the building as it is positioned within the lines of the existing

building's facades. The signage is considered to respect the important architectural features of the existing building.

Associated devices & logos with advertisements and advertising structures – All lighting and required safety devices will be concealed internally within the structure of the signs.

Illumination – The level of illumination of the proposed signage is not considered to impact on the surrounding development.

Safety – It is considered the proposed signage would not reduce the safety for pedestrians, bicyclists, drivers or obscure sightlines from public areas as the signs have an adequate setback from the street and pedestrian walkways.

For the purposes of Schedule 1 of SEPP 64, the proposed signage is considered acceptable, however, further details in regards to the how the signage will be fitted to the façade of the heritage item is required before consent is granted. It is considered that a deferred commencement condition should be imposed on any consent granted to ensure that the proposed signage does not adversely impact on the subject heritage item.

5. State Environmental Planning Policy (Infrastructure) 2007

The subject site has a frontage to the Princes Highway which is a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP):

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

Vehicular access to the property is provided from Smith Street and as such "is provided by a road other than the classified road." It is considered that the proposed development would not affect "the safety, efficiency and on going operation of the classified road." It is considered that the proposed development is a type of development that is not sensitive to traffic noise or vehicle emissions.

In accordance with Clause 104 of the Infrastructure SEPP, the application was referred to the Roads and Maritime Services. The matter was discussed at a meeting of the Sydney Regional Development Advisory Committee (SRDAC) on 18 December 2012, wherein the following comments were provided:

1. *RMS is aware that the existing bus stop and shelter located in front of the subject site will need to be relocated due to the proposed deceleration lane. As discussed in the SRDAC meeting the applicant is currently in consultation with the State Transit Authority (STA) for the relocation and approval of the bus stop and shelter. The applicant shall seek approval from STA and submit a plan with signposting alterations to RMS for approval.*
2. *The proposed deceleration lane on the Princes Highway shall be designed to meet RMS's requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to RMS for consideration and approval prior to the release of the Construction Certificate by Council and commencement of road works.*

The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the Works Authorisation Deed (WAD) will need to be executed prior to RMS's assessment of the detailed civil design plans.

RMS fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

3. *Any realignment boundary to facilitate a footway resulting from the proposed deceleration lane must be dedicated as public road at no cost to RMS and Council. This land dedication from the subject site as public road shall be executed, prior to the release of an Occupation Certificate for the proposed development.*
4. *The entire length of the deceleration lane is to be signposted "No Stopping".*
5. *The developer is to submit design drawings and documents relating to the excavation of the site and support structures to RMS for assessment, in accordance with Technical Direction GTD2012/001.*

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by RMS.

The report and any enquiries should be forwarded to:

Project Engineer, External Works

**Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.**

**Telephone 8848 2114
Fax 8849 2766**

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

6. *Council should ensure that post-development storm water discharge from the subject site into the RMS drainage system does not exceed the pre-development discharge.*

Should there be any changes to RMS's drainage system then detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to RMS for approval, prior to the commencement of any works.

Details should be forwarded to:

**The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.**

A plan checking fee will be payable and a performance bond may be required before RMS's approval is issued. With regard to the Civil Works requirement please contact RMS's Project Engineer, External Works Telephone: 8849 2114 or Fax: 8849 2766.

7. *Any redundant driveways shall be removed and reinstated as kerb and gutter to match the existing.*
8. *The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1– 2004 and AS 2890.2 — 2002 for heavy vehicle usage.*
9. *Car parking provision to Council's satisfaction.*
10. *The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.*

In addition, a swept path analysis should be submitted to Council for the right turn out from Smith Street on to the Princes Highway.

- 11. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.*
- 12. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.*
- 13. All vehicles are to enter and exit the site in a forward direction.*
- 14. All traffic control during construction must be carried out by accredited RMS approved traffic controllers.*
- 15. All works/regulatory signposting associated with the proposed development are to be at no cost to RMS.*

The application was also referred to Council's Development Engineer, who provided the following comments:

"An assessment of the traffic impacts has been submitted in support of the application by Transport and Traffic Planning Associates. In order to estimate the traffic generation rates for a bulky goods development Transport and Traffic Planning Associates took the average of 3 separate survey results undertaken by Roads & Maritime Services (RMS), Project Planning and Associates and Transport and Urban Planning. The results of the above surveys were averaged to provide the following rates per 100sqm of Gross Floor Area (GFA):

- Weekday PM Network peak hour generation 1.0 veh/100sqm;*
- Weekend Midday Network peak hour generation 2.0 veh/100sqm.*

The traffic generation rates used in the assessment have been underestimated by an error in the RMS survey results as quoted in the Transport and Traffic Planning Associates assessment. The Transport and Traffic Planning Associates assessment used a weekend network peak generation rate of 1.56 veh/100sqm instead of the surveyed 2.7 veh/100sqm. Recalculating the generation rates provides the following adjusted rates:

- Weekday PM Network peak hour generation 1.0 veh/100sqm;*
- Weekend Midday network peak hour generation 2.3 veh/100sqm.*

This is in line with the current RMS Technical Direction-TDT2013/04 "Guide to Traffic Generating Developments-Updated traffic surveys" released in May 2013 which now provides traffic generation rates for Bulky Goods retails stores. It is recommended that the Average RMS results for the Sydney Metropolitan Area be used as follows:

- Weekday PM Network peak hour generation 1.01 veh/100sqm i.e. 212 vph;
- Weekend Midday Network peak hour generation 2.24 veh/100sqm i.e. 470 vph

The Traffic analysis using SIDRA shall therefore be reassessed using the RMS traffic generation rates above.

In assessing traffic impacts the peak activity time of the development (Site Peak) also needs to be considered, not only Network Peak. The Traffic assessment by Transport and Traffic Planning Associates only considered the Network Peak and no analysis of the Site Peak. Therefore the traffic assessment shall be amended to include an assessment of the impact of Site Peak generation on Smith Street and the local road network.

The current rates provided by the RMS Technical Direction Sydney Metropolitan Area (Average) shall be used as follows:

- Weekday Site peak hour generation rate of 2.44 veh/100sqm i.e. 512 vph
- Weekend Site peak hour generation rate of 3.75 veh/100sqm i.e. 788 vph

The site peak hour generation rates are considerably higher than the Network peak generation rates and therefore it is recommended that a Deferred Commencement Condition be imposed requiring an amended Traffic Impact Assessment to be submitted to Council's satisfaction using the appropriate Peak Site and Peak Network traffic generation rates outlined in the RMS Technical Direction-TDT2013/04 "Guide to Traffic Generating Developments-Updated traffic surveys" (May 2013) for Bulky Goods retails stores. In addition the amended Traffic Impact Assessment shall include proposed improvements to the intersection/traffic signals to ensure that the intersection of Smith Street and the Princes Highway continues to operate at a minimum Level Of Service (LOS) of D for the for Smith Street leg of the intersection."

To ensure that the proposed development does not have any adverse impacts on the operation of the adjoining road network, appropriate conditions of consent are recommended for imposition to ensure that the requirements prescribed above are incorporated into the proposed development.

6. Marrickville Local Environmental Plan 2011

Marrickville Local Environmental Plan 2011 (MLEP 2011) was gazetted commencing on 12 December 2011 and is the principal Environmental Planning Instrument applying to the land. An assessment of the proposed development having regard to the relevant provisions of MLEP 2011 is provided below.

(i) Land Use Table and Zone Objectives (Clause 2.3)

The subject site is zoned IN2 – Light Industrial under the provisions of MLEP 2011. Development for the purposes of a bulky goods premises is prohibited under the zoning provisions applying to the land. However, pursuant to Clause 2.5 of MLEP 2011, development for the purposes of a bulky goods premises is permitted with consent on the subject site.

The proposed development is considered acceptable having regard to the objectives of the IN2 - Light Industrial zone.

(ii) Additional Permitted Uses for Particular Land (Clause 2.5)

The subject property is identified as a Key Site on the Key Sites Map accompanying MLEP 2011 and is afforded with additional permitted uses described in Schedule 1 of MLEP 2011 as *development for the purpose of bulky goods premises is permitted with consent*. Accordingly, the proposed development is permissible with consent.

(iii) Subdivision (Clause 2.6)

Clause 2.6 of MLEP 2011 states that land to which this Plan applies may be subdivided, but only with development consent. The proposed development includes subdivision of the land to create a slip lane along the Princes Highway frontage and road widening of the northern side of Smith Street adjacent to the site. This matter is discussed later in this report under the heading "*Marrickville Development Control Plan 2011 - Part 3 - Subdivision, Amalgamation and Movement Networks*".

(iv) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for the partial demolition of the existing improvements on the site. Suitable demolition conditions should be imposed on any consent granted for the proposal.

(v) Height (Clause 4.3)

MLEP 2011 does not prescribe a maximum building height for the subject site. Instead, Marrickville Development Control Plan 2011 contains a number of controls and objectives which aim to ensure that the heights of buildings within the industrial zone are consistent with the character of the surrounding area.

This matter is discussed in more detail later within this report, under the heading "*Marrickville Development Control Plan 2011 (MDCP 2011)*".

(vi) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 0.95:1 applies to the site, as indicated on the Floor Space Ratio Map that accompanies MLEP 2011.

The proposed development has a gross floor area (GFA) of approximately 21,876sqm which equates to a FSR of 1.072:1. The proposal results in a 12.8% departure with the abovementioned development standard.

The application was accompanied by a written request in relation to the development's non compliance with the subject development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011.

(vii) Exceptions to Development Standards (Clause 4.6)

Clause 4.6 contains provisions that provide a degree of flexibility in applying certain development standards to particular development. Under Clause 4.6 (2), Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

As detailed earlier in this report, the proposed development exceeds the maximum floor space ratio development standard prescribed under Clause 4.4 of MLEP 2011. The application was accompanied by a written submission in relation to the contravention of the subject development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011.

Under Clause 4.6(3), development consent must be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant considers compliance with the development standard to be unreasonable and unnecessary for the following reasons:

*“In **Wehbe v Pittwater Council [2007] NSWLEC 827** Preston CJ set-out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:*

- 1. Establish that compliance with the development standard is unreasonable or unnecessary because **the objectives of the development standard are achieved notwithstanding non-compliance** with the standard.*
- 2. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- 3. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- 4. Establish that the development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- 5. Establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary”.*
(our emphasis)

*In applying the tests of **Wehbe v Pittwater Council** [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding the proposed variation, as demonstrated in Sections 5.4.1.1 and 5.4.1.2, the proposed development is consistent with the underlying objectives of the standard for FSR and the zone of LEP 2011.*

The submitted objection is considered to demonstrate that the proposed development still satisfies the underlying objectives of the floor space ratio development despite the departure, and therefore pursuant to test contained within the **Wehbe v Pittwater Council** [2007] NSWLEC 827 compliance with the development standard is considered unreasonable and unnecessary in this instance.

The applicant provided the following environmental planning grounds to justify the contravention of the development standard:

- The proposed development is entirely consistent with the underlying objective or purpose of the standard;*
- The building envelope is consistent with the existing building envelope and maintains the existing scale and bulk on the site;*
- The proposed development will not significantly impact on the amenity of adjoining occupiers;*
- The proposed development will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties in Smith Street; and*
- The proposed development complies with all other standards of the LEP 2011 and will create a negligible impact on the locality and its surrounds.*

This exception to the development standard demonstrates that the proposed variation should be supported because:

- The proposed building FSR is consistent with the underlying objectives of the standard;*
- The site is surrounded by existing buildings to the north, of a similar density, scale and bulk;*
- The proposed variation does not result in any unreasonable privacy, sunlight, view loss or visual impacts;*
- The proposed variation to the standard does not raise any matter of significance for State or regional environmental planning;*
- There is no public benefit in maintaining strict compliance with the standard;*
- Strict application of the standard is therefore unreasonable and unnecessary in the circumstances of the case; and*
- Overall, it is considered that the proposed variation to the maximum FSR control (12.3%) is entirely appropriate and can be clearly justified having regard to the matters listed within LEP Clause 4.6.*

It should be noted that the applicant's interpretation of GFA and Council Officers interpretation of GFA differ. The applicant submitted GFA calculations which excluded the passageways around the perimeter of the ground and first floor levels. Council Officers consider that these areas are GFA as they serve as circulation

space, fire exits and provide access to staff areas. Furthermore, these areas contribute to the overall bulk and scale of the proposed building. The applicant also included all the excess parking spaces as GFA, where the majority of the excess parking spaces are considered to be located external to the building.

	Gross Floor Area (sub-total)	Excess Parking	Total
Applicant	19,592sqm	105 spaces = 2,375sqm	21,967sqm
Council Officers	21,355.73sqm	23 spaces = 520.26sqm	21,875.99sqm

The difference between the two calculations is 91.01sqm, and despite the technical difference, the overall variation sought by the applicant remains generally the same.

The proposal will result in a 12.8% departure in the FSR development standard applying to the site. As demonstrated within the written request submitted by the applicant, the proposed departure of the FSR standard is acceptable in this instance as compliance with the development standard is considered unreasonable and unnecessary.

The applicant is considered to have provided sufficient justification to vary the development standard in this instance and the submitted written request is considered to be well founded. Therefore, Clause 4.6 of MLEP 2011 can be used as a mechanism to vary the FSR development standard and grant consent to the development.

Subclause (5) of Clause 4.6 of MLEP 2011 requires an assessment of the following:

- whether the contravention of the development standard raises any matter of significance for State and regional environmental planning, and
- the public benefit of maintaining the development standard, and
- any other matters required to be taken into consideration by the Director General before granting concurrence.

It is considered that the contravention of the development standard does not raise any matter of significance for State and regional environmental planning, and that there is no public benefit in maintaining the development standard for the proposed development.

(viii) Preservation of Trees or Vegetation (Clause 5.9)

Clause 5.9 of MLEP 2011 concerns the protection of trees identified under Marrickville Development Control Plan 2011. The application seeks approval for the removal of several trees located within the subject site and adjacent to the Princes Highway.

This matter is discussed later within this report under the heading “*Marrickville Development Control Plan 2011 (MDCP 2011)*”.

(ix) Heritage Conservation (Clause 5.10)

The subject property is listed as a heritage item under MLEP 2011, namely Part of Westpac Stores Department and Penfolds Wine Cellars (former) (Item I299). The site has also been indentified under MLEP 2011 as an archaeological site.

In accordance within Clause 5.10 (7) of the MLEP 2011, the application was referred to the Heritage Council of New South Wales, who raised no objection to the proposed development subject to the imposition of the following conditions:

1. *Before any works commence on site the Applicant will need to apply to the Heritage Council for a Section 140 Heritage Act Approval and comply with any and all conditions such approval, if granted. This application will need to be accompanied by an appropriate Archaeological Assessment and Archaeological Research Design and Methodology.*
2. *Given the site's long and varied history, the Applicant must allow for and present opportunities for interpretation within the proposed development at 728–750 Princes Highway of the historical development of the site within the Tempe and larger Marrickville LGA area. This interpretation should also help the sites users understand the history and significance of the study area.*
3. *The Applicant must ensure that if warranted, the results of the archaeological programme are interpreted within the completed redevelopment of the site.*
4. *The Applicant must ensure that an experienced heritage interpretation practitioner prepares an Interpretation Plan in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" (2005).*

The application was also referred to Council's Heritage and Urban Design Advisor, who raised no objection to the proposal subject to the imposition of appropriate conditions. Those conditions recommended by the Heritage Council and Council's Heritage and Urban Design Advisor should be imposed on any consent granted.

(x) Acid Sulfate Soils (Clause 6.1)

The subject property is identified as land being affected by Class 5 acid sulfate soils on the MLEP 2011 Acid Sulfate Soils Map. The applicant submitted a Detail Site Investigation, which indentified the site as potentially being affected by acid sulfate soils. This matter has been discussed previously within this report under the heading "State Environmental Planning Policy No. 55 – Remediation of Land".

(xi) Earthworks (Clause 6.2)

The proposed development includes excavation to a depth approximately 2.5 metres below existing ground level to accommodate the undercroft parking. Clause 6.2 of MLEP 2011 requires the consent authority to have regard to certain matters where earthworks require development consent. Those matters include the potential disruption to drainage patterns and soil stability, effects on the likely future use of the

land, the quality of the fill or soil to be excavated, likely effects on adjoining properties, the likelihood of disturbing relics and the potential for adverse impacts on any watercourse or drinking water.

The application was accompanied by a Geotechnical report, which stated that the proposed development is considered geotechnically feasible, however, recommends further investigation to provide suitable recommendations for design and to manage the geotechnical risks associated with the development. In addition the applicant submitted a Detailed Site Investigation report, which contained a number of recommendations to ensure that the site can be made suitable for the proposed development and the appropriate disposal of excavated soil, and an Archaeological report, which contained a number of recommendations to ensure the proposed excavation works do not impacts on any potential “*relics*” which may discovered as a result of the development.

Subject to the imposition of appropriate conditions relating to the recommendations contained within the various reported submitted with the application, the proposed development is considered to satisfy the objectives contained within Clause 6.2 of MLEP 2011.

(xii) Development in areas subject to Aircraft Noise (Clause 6.5)

Clause 6.5 applies to development on that that (in part) is in an ANEF contour of 20 or greater, and the consent authority considers is likely to be adversely affected by aircraft noise.

The subject property is located within the 25-30 Australian Noise Exposure Forecast (2033) Contour and is considered that the proposed development is likely to be affected by aircraft noise.

It is considered that the carrying out of proposed development would result in an increase in the number of people affected by aircraft noise.

The proposed development would need to be noise attenuated in accordance with AS2021:2000. An Acoustic report, prepared by Renzo Tonin & Associates, dated 17 July 2012, accompanied the application which details that the proposed development could be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2021:2000. It is recommended that the report be referenced as part of the approved plans and documents listed in condition 1 of any consent granted for the proposal.

(xiii) Airspace Operations (Clause 6.6)

The proposed development would not penetrate the Limitation or Operations Surface.

7. Draft Marrickville Local Environmental Plan 2011 (Amendment 1)

Draft Marrickville Local Environmental Plan 2011 (Amendment 1) (the Draft LEP Amendment) has finished public exhibition and is awaiting gazettal by minister. Accordingly, the Draft LEP Amendment is a matter for consideration in the assessment of the subject development application under Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The Draft LEP Amendment rezones the subject site from IN2 – Light Industrial to B6 – Enterprise Corridor. Bulky Good Premises are still prohibited within the B6 – Enterprise Corridor. However, the pursuant to Clause 2.5 of MLEP 2011, bulky goods premises still remain an additional permitted use on the subject site. The amendment to MLEP 2011 is not considered to alter the assessment of the proposed development. The application is considered acceptable in this regard.

8. Marrickville Development Control Plan 2011

Marrickville Development Control Plan 2011 (MDCP 2011) provides detailed guidelines necessary to implement Marrickville Local Environmental Plan 2011 and provides guidance for the design and assessment of new development. The DCP provides controls relating to General Provisions including access and mobility, acoustic and visual privacy, solar access and overshadowing, community safety, parking and access and also provides controls relating to Industrial Development including built form and character, streetscape, general appearance and materials, parking and access and site facilities.

An assessment of the proposed development having regard to the relevant provisions of MDCP 2011 is provided below:

PART 2 - GENERIC PROVISIONS

(i) Urban Design (Part 2.1)

Part 2.1 of MDCP 2011 contains the following control relating to urban design:

“C1 All development applications involving substantial external changes that are visible from or effect public space or have significant land use implications must be consistent with the relevant aspects of the 12 urban design principles that make good public environments, which are to be addressed within the statement of environmental effects (SEE).”

The proposed development is considered acceptable having regard to the relevant aspects of the 12 urban design principles. The applicant has addressed Part 2.1 of MDCP 2011 within the submitted Statement of Environmental Effects. The Princes Highway and Smith Street elevations are being retained and the majority of the proposed works are concealed behind those two facades. As such, the new works are not considered to be readily visible from the public domain. The application is considered acceptable in this regard.

(ii) Equity of Access and Mobility (Part 2.5)

Part 2.5 of MDCP 2011 requires consideration to be given to accessibility before granting development consent.

For industrial developments Part 2.5 of MDCP 2011 requires:

- Appropriate access for all persons through the principal entrance of a building and a continuous accessible path of travel (CAPT), designed in accordance with the Building Code of Australia and relevant Australian Standards; and
- General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities and outdoor recreational facilities; and
- In a car parking area containing 10 or more car spaces, a minimum of one (1) accessible car parking space being provided for every 10 car spaces or part thereof.

The application was accompanied by an Access Review report, prepared by Morris-Goding Accessibility Consulting, which contained several recommendations to ensure that the proposal complies with the relevant provisions of Part 2.5 of MDCP 2011, the Australian Standards, Building Code of Australia and Disability Discrimination Act. Subject to the imposition of appropriate conditions requiring the recommendations within the report being incorporated into the construction of the development, the proposal is considered acceptable.

Despite the above, the requirements of MDCP 2011 are effectively superseded by the introduction of the new Premises Standards. An assessment of whether or not these aspects of the proposal fully comply with the requirements of relevant Australian Standards and the new Premises Standards has not been undertaken as part of this application. This assessment would now form part of the assessment under the Premises Standards at the Construction Certificate stage of any proposal.

(iii) Visual and Acoustic Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains the following objectives relating to visual and acoustic privacy:

- “01 To ensure new development and alterations and additions to existing buildings provide adequate visual and acoustic privacy for the residents and users of surrounding buildings.***
- 02 To design and orientate new residential development and alterations and additions to existing residential buildings in such a way to ensure adequate acoustic and visual privacy for occupants.”***

Part 2.6 of MDCP 2011 contains the objectives and controls relating to acoustic and visual privacy including controls relating to aircraft noise, general acoustic privacy, visual privacy, air conditioning, and impacts of rail and road noise or vibration.

The layout and design of the proposed development ensures that the visual and acoustic privacy currently enjoyed by residents of adjoining residential properties are protected. The proposal does include any additional openings along the Smith Street elevation which would result in any adverse privacy impacts. Furthermore,

appropriate conditions of consent have been recommended to ensure that the operation of the subject development does not adversely impact on the acoustic amenity of the adjoining residential properties.

(iv) Solar Access and Overshadowing (Part 2.7)

Overshadowing:

The application was accompanied by shadow diagrams which illustrated the extent of the additional overshadowing caused by the proposed development. Due to the orientation of the site and the location of the proposed works, the development will not impact on the existing solar access currently enjoyed by the residential dwellings located along the southern side of Smith Street. The additional overshadowing will occur across the rear elevations of the adjoining industrial buildings which front Wood Street.

Solar Access:

The proposal includes the use of translucent roof sheeting, bay windows and internal voids to allow natural light into the proposed centre. It is considered that the design of the new additions satisfy the objectives and controls contained within Part 2.7 of MDCP 2011.

(v) Social Impact Assessment (Part 2.8)

Part 2.8 of MDCP 2011 requires the application to be accompanied by a Social Impact Statement. A Social Impact Statement, prepared by Urbis, was submitted with the application and referred to Council's Social Planner. Council's Social Planner provided the following comments in regards to the submitted statement:

"The application does not comply with Section 2.8.4 Contents of a SIA in that the SIS:

- does not include a thoroughly researched baseline (for instance very few facts or figures are provided on industry, retail and employment);*
- the community engagement process focuses on planning issues, such as amenity and traffic, and has not been effective in terms of eliciting social impact concerns; and*
- is not robust and complete in addressing the impacts identified.*

Sufficient relevant information has not been supplied to identify the social impacts of the proposed development."

Whilst Council's Social Planner raised concerns over the extent of information provided by the applicant, no objection was raised in principal to the proposed development.

The site forms part of the Princes Highway Enterprise Corridor, which is identified in the Draft South Subregional Strategy as an arterial road which is suitable for contributing to additional employment lands. Council undertook an extensive

Employment Lands Study, in conjunction with the Sydney Metropolitan Plan and Draft South Subregional Strategy to determine the most appropriate and efficient use of employment land within the Marrickville Local Government Area. As a result of this study, the subject site was marked for bulky goods premises and under the Draft LEP Amendment, the site is to be rezoned B6 – Enterprise Corridor.

Whilst the displacement of existing employees results in negative social impacts, the long term increased employment opportunities is considered beneficial. Furthermore, the employment opportunities generated by the proposed development are considered to greatly benefit the demographic of Tempe and the surrounding suburbs.

The Social Impact Statement submitted by the applicant stated:

“The community profile indicates that Tempe suburb is more representative of Sydney rather than Marrickville LGA. There are a high proportion of younger people and people of a working age resident in Tempe suburb than Sydney and Marrickville LGA. There are also a high proportion of students resident in the area and these population sub-groups will require access to employment opportunities in the local area, which the proposal will further provide.”

The proposal seeks to change the use of the subject site in line with the regional and sub-regional strategies and Marrickville Local Environmental Plan 2011. Despite the comments made by Council’s Social Planner, the negative social impacts associated with the change of use do not amount to a refusal and therefore the application is considered acceptable in this regard.

(vi) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 contains objectives and controls relating to community safety. The proposed development is considered to generally satisfy the objectives of Part 2.9 of MDCP 2011 as follows:

- The proposal includes appropriate lighting for all entrances and on-site pedestrian thoroughfares;
- The alterations and additions to the building have been design to avoid secluded areas and incorporate large open plan areas which accommodate parking, landscaping and entrances;
- The building entrance will be readily visible from the street;
- The proposed landscaping has been design to minimise opportunities for entrapment or concealment of intruders; and
- The proposed use will generate in itself more opportunities for causal surveillance by customers.

Subject to the imposition of appropriate conditions ensuring the above measures are incorporated into the design of the development, the application is considered acceptable in this regard.

(vii) Parking (Part 2.10)

In accordance with Part 2.10 of MDCP 2011, the subject property is located in Parking Area 3. As such the following car, bicycle and motor cycle parking requirements apply to the proposed development:

- 1 car parking space per 100sqm of gross floor area;
- 1 bicycle parking space per 150sqm of gross floor area for staff;
- 1 bicycle parking space per 1000sqm of gross floor area for staff; and
- Motor cycle parking provided at the rate of 5% of the total car parking requirement.

Car Parking:

The proposed development results in a GFA of approximately 21,355.7sqm. As such, the proposal requires the provision of 214 car parking spaces under Part 2.10 of MDCP 2011. The applicant proposes 301 off street car parking spaces, which exceeds the numerical car parking requirements contained in MDCP 2011.

The applicant submitted the following parking rates, in addition to a comparison to the parking rates for bulky goods premises in surrounding Local Government Areas, to support the proposed non-compliance with Council's parking provisions:

Consent Authority / Body	Parking Rate	Parking required based on GFA 21,355.7sqm
IKEA Development	1 space per 22.5sqm	949 spaces
Bulky Goods Retailers Association	3 space per 100sqm	640 spaces
Sutherland Council	1 space per 45sqm	475 spaces
Botany Bay Council (Draft)	1 space per 50sqm	427 spaces
Roads and Maritime Services	1.5 spaces per 100sqm	320 spaces
Rockdale Council	1 space per 75sqm	285 spaces
Marrickville Council	1 space per 100sqm	214 spaces

As indicated above, Marrickville Council's parking rates for bulky goods premises are the lowest out of the adjoining Local Government Areas and also when compared with the recommendations made by the Roads and Maritime Services and the Bulky Goods Retailer Association.

Given the nature of the proposed use, the additional parking spaces provided on site are considered acceptable. The application was accompanied by an Assessment of Traffic and Parking Implications report, which identified the need for the additional parking spaces, based on studies undertaken by RMS. The application was also referred to Council's Development Engineer, who supports the proposed number of on-site parking spaces. As such, the proposed variation to Council's car parking controls is considered acceptable.

Bicycle Parking:

The application includes provisions for up to 150 bicycle parking spaces, which is considered acceptable in this regard.

Motorcycle Parking:

The proposal includes 10 motorcycle parking spaces within the basement area, which is considered acceptable in this regard.

Vehicle Service and Delivery Areas:

The application includes two (2) large loading docks for receiving deliveries and customer loading facilities, in addition to 20 car loading spaces and four (4) trailer loading spaces. The development is considered to provide adequate on site loading facilities.

(viii) Signage and Advertising Structures (Part 2.12)

Part 2.12 of MDCP 2011 specifies Council's objectives and requirements for the erection and display of advertising signs. Those provisions are intended to protect the significant characteristics of retail/commercial strips, neighbourhoods, buildings, streetscapes, vistas and the skyline. The provisions include general controls for signage, prohibitions, preferred options for signage and size restrictions for signage.

The application seeks consent for the erection of the following business identification signage:

- One (1) x Blade pylon sign (10.25 metres x 2.97 metres) approximately 10.5 metres in height
- One (1) x Front façade sign (11.6 metres x 2.3 metres)
- Nine (9) x Banner signs (2 metres x 6 metres)
- Directional and information signage within the parking areas

Whilst the proposed signage is supported in principal, the level of detail provided with the application is considered insufficient to approve the signage.

It is considered that a deferred commencement condition should be imposed on any consent granted requiring the submission of further details as to how the proposed signage will be attached to the façade of the heritage item without resulting in any adverse or irreversible damage to the subject heritage item.

(ix) Energy Efficiency (Part 2.16)

Part 2.16 of MDCP 2011 contains the following objectives relating to energy efficiency:

- “01 To provide advice on the principles of energy efficient building design, to improve comfort levels to occupants, and reduce energy consumption.***
- 02 To ensure buildings are well designed to achieve the efficient use of energy for internal heating and cooling.***
- 03 To ensure design for good environmental performance and amenity is considered in conjunction with other design and amenity considerations in Marrickville LGA.”***

Part 2.16.3 of MDCP 2011 specifies the following requirements for new business premises, retail premises, office premises and industrial buildings (involving a gross floor area of greater than 1,000sqm):

- *The total anticipated energy consumption must be no greater than 450 MJ/am2 (commercial) and 900MJ/am2 (retail).*
- *New or replacement hot water systems of domestic/ residential scale must be 3.5 star greenhouse rated or more efficient.*
- *The design principles and controls in sections 2.16.6 to 2.16.8 (must be discussed in the statement of environmental effects (SEE)).*
- *Where natural ventilation is not possible and new or replacement air-conditioners (of domestic/ residential scale) are to be installed; they must be MEPS (minimum energy performance standards) rated. Minimum 4 star rating for cooling only, and minimum 4 star on one cycle and 3 star on the other cycle for reverse-cycle models."*

The application was accompanied by an Energy Performance Report which demonstrated that the proposed development would comply with the above provisions of Part 2.16.3 of MDCP 2011. As such, appropriate conditions of consent have been recommended for imposition.

(x) Water Sensitive Urban Design (Part 2.17)

Part 2.17 of MDCP 2011 contains objectives and controls relating to Water Sensitive Urban Design (WSUD) including requirements for commercial, retail, and industrial development with a total site area greater than 2,000sqm, which results in new or increased gross floor area of greater than 50%.

The application was accompanied by a Stormwater Management Report, which included modelling undertaken in the Model for Urban Stormwater Improvement Conceptualisation (MUSIC), which demonstrated that the proposed development complies with the above provisions.

Furthermore, the application was referred to Council's Development Engineer, who supports the proposed development in this regard subject to several appropriate conditions of consent.

(xi) Landscaping and Open Spaces (Part 2.18)

The proposal maintains the existing front setback, which ranges between approximately 10 metres to 13 metres. The application proposes to landscape the front setback using plantings which will remain below 1 metre in height to ensure views of the heritage item are not obscured, with the exception of several mature trees to either side of the front façade to compensate for the removal of seven (7) street trees along the Princes Highway frontage. The application also includes landscaping works along the Smith Street frontage and within the proposed rear car parking area, which aims to partially screen the back half of the building through mature tree planting and planted trellis structure and provide some shading and vegetation to the parking area.

A landscape plan and maintenance schedule was submitted with the application, which was referred to Council's Tree Management Officer who provided the following comments:

"To summarise the comments on the landscape concept plan:

- the tree species are considered appropriate species to reflect the objectives of the urban forest strategy;*
- the proposed planting sizes of mostly 200 litres will best help compensate for existing tree loss and are considered acceptable;*
- there is an insufficient number of trees to compensate for the loss of the existing trees;*
- there is no compensatory street tree planting proposed to compensate the loss of the seven street trees;*
- there is significantly inadequate space for the proposed plantings; and*
- there is significantly inadequate provision for volume of soil to sustain the health, growth and longevity of the trees; and*
- The culmination of all the above is that the proposed landscaping and tree planting does not adequately compensate for the loss of existing trees on and adjacent to the site."*

The application was accompanied by an Arborist's Report, which provided the following comments:

"Whilst the Black Tea-trees along the nature strip on the Princes Highway all make a contribution to the amenity of the streetscape, they are presently compromised to an extent by virtue of their position beneath overhead powerlines and being located within a fully paved area. A number of the trees also exhibit previous vehicle damage due to their proximity to the roadway. The trees are an isolated group and do not form part of a consistent avenue or street planting. Planting of new trees in groups within the front setback area as proposed has some merit in that trees in this position will have the potential to attain a greater mature dimension and therefore make a greater contribution to amenity in the longer term, without the constraints of hard pavement, vehicle traffic and overhead powerlines. This is similar to the pattern of development elsewhere along the Princes Highway (for example, the Kennards Self Storage Facility at 632 Princes Highway). The removal of these trees is supported in this instance, subject to replacement planting with at least six (6) new trees within the front setback area as indicated on the Landscape Concept Plan. The trees should be capable of attaining a minimum height of ten (10) metres at maturity. Given the relatively small size of the existing trees, replacement planting of this nature will compensate for the loss of amenity in the short term (10-15 years) and provide a greater and more sustainable contribution to the amenity of the site and streetscape in the long term.

In order to compensate for loss of amenity resulting from the removal of trees to accommodate the proposed development, a minimum of six (6) new trees should be planted within the front setback area of the site and a minimum of nine (9) new trees should be planted along the Smith Street frontage as

indicated on the landscape plan. The new trees should be capable of attaining a minimum height of ten (10) metres at maturity. The selected species should be appropriate to the soil and climatic conditions of the site and be located in positions where they can attain their mature dimensions."

The application includes the removal of all seven (7) existing street trees along the Princes Highway to accommodate the proposed new shared pedestrian and cycleway. The application also includes compensatory planting within the subject site to mitigate the loss of the seven (7) street trees. Given the location of the subject site and the character of the surrounding area, the proposed removal of the existing street trees in return for the proposed shared pedestrian and cycleway and compensatory onsite planting is considered acceptable.

The application also includes the widening of Smith Street, which results in a reduce side setback and the removal of the existing trees. The submitted Arborist's Report recommended appropriate replacement planting along the Smith Street setback to compensate for the loss of those trees.

Council's Tree Management Officer generally supports the tree species and planting sizes proposed by the applicant, however, the planting conditions and locations of the proposed replacement trees are considered inadequate. Furthermore, Council's Tree Management Officer does not support the removal of the existing street trees without appropriate compensatory planting.

To ensure that the proposed landscaping satisfies the recommendations made with the submitted Arborist's Report, a condition has been recommended for imposition requiring detailed plans being submitted to the satisfaction of the Certifying Authority, endorsed by a qualified Arborist, demonstrating adequate planting conditions being provided for all proposed trees and any necessary measures being incorporated into the development to ensure the ongoing health of the proposed landscaping.

(xii) Recycling and Waste Management (Part 2.21)

The application includes the provisions for on-site storage of waste to meet the need of the proposed bulky goods premises. The plans indicate an area dedicated for storage located adjacent to the rear loading docks. A condition is recommended requiring the submission of a Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements be submitted with the application for a construction certificate.

(xiii) Acid Sulfate Soils (Part 2.23)

The subject property is identified as land being affected by Class 5 acid sulfate soils on the MLEP 2011 Acid Sulfate Soils Map. The proposed development is within an area identified as being subject to acid sulfate soil risk, and will require excavation up to 2.5 metres in depth.

The applicant submitted a Detailed Site Investigation report which identifies the site as potentially being affected by Acid Sulfate Soils and recommends that further testing be undertaken to determine the extent, if any, that the site is affected by Acid

Sulfate Soils. Appropriate conditions are recommended for imposition to ensure that the proposed development satisfies the provisions contained within Part 2.23 of MLEP 2011.

(xiv) Contaminated Land (Part 2.24)

This matter has been previously discussed in detail under the heading “*State Environmental Planning Policy No. 55 – Remediation of Land*”.

PART 6 – INDUSTRIAL DEVELOPMENT

The subject site is zoned industrial land and is surrounded by existing industrial development. Given the context in which the site is located and the proposed built form, the application has been assessed against the provisions of Part 6 – Industrial Development of MDCP 2011.

(i) Built Form and Character (Part 6.1.2)

Floor Space Ratio:

As indicated previously within this report, the proposed development will result in a departure with the floor space ratio development standard contained within MLEP 2011. Despite the non-compliance, the applicant has demonstrated that the proposed development still satisfies the objectives of the standard and the zone and is considered acceptable in this regard.

Site Area and Frontage:

The subject is approximately 20,400sqm and the application included vehicle movement diagrams which demonstrate the site can accommodate the proposed use and vehicle movements necessary to service the proposed development. Furthermore, the site has a frontage which exceeds the 20 metre minimum prescribed under Part 6.1.2.3 of MDCP 2011. The application is considered acceptable in this regard.

Site Layout and Amenities:

The proposed site layout and amenities, including landscaping are considered generally acceptable and satisfy the objectives of Part 6.1.2.4 of MDCP 2011, subject to the imposition of appropriate conditions.

Building Height:

The proposed new works have a building height which will remain below the ridgeline of the existing building on site. The height of the proposed works and existing building are considered acceptable in this regard.

Building Design and Appearance:

The proposal includes the retention of the existing building elements which front the Princes Highway and Smith Street. The new works are located within the rear corner of the site and are considered to reflect the built form and appearance of the surrounding industrial development. The application is considered acceptable in this regard.

Setbacks:

The proposal will maintain the existing front setbacks, which ranges between approximately 10 metres to 13 metres. The Smith Street setback will be approximately 2.5 metres after the completion of the proposed road widening and boundary adjustment. The existing rear setback will be retained at approximately 13 metres.

The front setback retains the existing heritage item and is considered acceptable. Part 6.1.2.7 of MDCP 2011 prescribes a secondary frontage setback of 1.5 metres. In addition, industrial allotments which adjoin residential buildings must be designed appropriately to protect the amenity of those buildings. The proposal maintains the existing separation between the existing industrial building and the adjoining residential properties. Whilst the development proposes to remove the existing landscaping to accommodate the new road widening, the application includes the provision of mature planting to partially screen the existing side elevation.

Subject to the imposition of appropriate conditions, the proposed landscaping is considered acceptable in maintaining the amenity of the adjoining residential properties.

(ii) Site Facilities (Part 6.1.3)

Appropriate conditions have been recommended for imposition to ensure that development complies with the provisions of Part 6.1.3 of MDCP 2011.

(iii) Industrial/Residential Interface (Part 6.2)***Plan of Management:***

Appropriate conditions have been recommended for imposition requiring the submission of a Plan of Management, prior to the release of an Occupation Certificate. The Plan of Management is required to be prepared in accordance with MDCP 2011. Furthermore, appropriate conditions of consent can be imposed on any future application for the use of the premises to protect the amenity of the adjoining residential amenity. The application is considered acceptable in this regard.

Noise and Vibration Generation:

Appropriate conditions have been recommended for imposition to ensure that the operation of the proposed bulky good premises does not adversely affect adjoining properties in regards to noise and vibration.

Hours of Operation:

The proposed hours of operation are 9.00am to 6.00pm Mondays – Saturdays (excluding Thursdays), 9.00am to 9.00pm Thursdays and 10.00am to 6.00pm Sundays and Public Holidays. It should be noted that the approved hours of operation of the adjoining IKEA store are 10.00am to 10.00pm Mondays to Fridays and 9.00am to 10.00pm weekends.

The proposed hours of operation are considered acceptable given the proposed use and the location of the site.

PART 8 - HERITAGE

The subject property is listed as a heritage item under MLEP 2011, namely Part of Westpac Stores Department and Penfolds Wine Cellars (former) (Item I299). The site has also been identified under MLEP 2011 as an archaeological site.

The application was referred to Council's Heritage and Urban Design Advisor, who provided the following comments:

"Demolition

Façade: Whilst acknowledging the demolition of the first floor former canteen space (noted in the HIS as having high significance) and other office rooms adjacent to the inside of the façade, the scale of demolition is supported by the GML Heritage Impact Statement. The rear warehouse has been altered and is of only moderate significance. The façade is indicated on the Heritage map, not the whole building, and upon assessment by GML, is the most significant part of the building.

Landscaping/new site boundary: The front garden wall, railing and lawn are also noted as having high significance. The boundary wall is proposed to be demolished for the slip lane, accessible ramp stairs and fire egress.

Archaeology & Interpretation

Potential archaeology is considered to be under a large section of the site, and is predicted as being of local significance. The Heritage Council of NSW has proposed four (4) conditions for approval regarding archaeology and interpretation. I have revised those conditions below.

Signage

The signage proposed will not negatively impact the building. It is responsive to the architectural elements of the façade and is restricted to a limited area.

Documents to be adjusted prior to consent:

- *Where demolition of boundary wall along the Princes Highway is noted on the drawings, the bricks and metal railing are to be salvaged, and reused in the reconstruction of the wall in the location of the new site boundary.*
- *Any adjustments to the proposal, necessitated by the requirements of the BCA report, must be demonstrated to be accommodated within the additions, not within the retained heritage areas."*

Having regard to the comments made by Council's Heritage and Urban Design Advisor, the proposal is considered acceptable on heritage grounds subject to the imposition of appropriate conditions. The proposal is therefore considered satisfactory in relation to the objectives and controls for heritage as contained in Part 8 of MDCP 2011.

PART 9 - STRATEGIC CONTEXT

Part 9 of MDCP 2011 divides the Marrickville Local Government Area (LGA) into 47 planning precincts. Each planning precinct has its own distinct character and provides an important contextual basis for establishing appropriate types of development in association with other controls within the DCP. Each precinct has an existing and desired future character to guide development within the area. Planning controls and objectives have been applied to precinct-specific areas and site-specific areas (through masterplans) to assist in achieving the desired future character. Thirteen (13) precincts have been completed as part of Stage 1 of MDCP 2011.

The subject property is located in the Princes Highway Planning Precinct (Precinct 33) under Marrickville Development Control Plan 2011. The subject planning precinct is not one of the 13 precincts that have been completed as part of Stage 1 of MDCP 2011. Planning controls and objectives for the subject planning precinct are being developed and will be included as part of a later stage of MDCP 2011.

9. Marrickville Section 94/94A Contributions Plan 2004

It is considered that the carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A contribution of \$254,931.65 would be required for the proposed development under Marrickville Section 94 Contributions Plan 2004. A condition requiring the above contribution to be paid should be imposed on any consent granted.

10. Community Consultation

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the subject property were notified of the proposed development in accordance with Council's policy. As a result of the notification of the application, nine (9) submissions were received. The concerns raised in those submissions have been summarised below:

Issue: *The proposed development will bring heavy traffic which will impede on adjoining businesses and place heavy traffic flow pressures on near-by residents.*

Comment: Appropriate conditions have been recommended to ensure that the proposed development does not significant impact on the operation of Smith Street.

Issue: *We believe strongly that Smith Street is not suitable for heavy traffic, as a result of the proposed development.*

Comment: Heavy vehicles currently use Smith Street to access the subject site and the several adjoining industrial development along Smith Street and Wood Street. Furthermore, the proposal includes the provision of road widening works to improve the function of Smith Street to accommodate the additional vehicle movements generated by the development.

Issue: *Some of the proposed development, such as signage and slip lane will invade adjoining properties boundaries.*

Comment: The proposed development will not impact on the boundaries of the adjoining properties. All works are contained within the boundaries of the subject site.

Issue: *The increase in traffic will create significant traffic problems in Smith Street. Currently, the timing of the Smith Street traffic lights does not always allow all vehicles lined up at the lights to exit Smith Street. This will result in traffic diverting to South Street, which is narrow and cannot accommodate two cars passing.*

Comment: Appropriate conditions have been recommended requiring the submission of an amended traffic analysis which will require appropriate measures to be incorporated in the development to ensure that the proposal does not adversely impact on the operation of Smith Street. These measures will include appropriate reprogramming of the traffic signals at the Smith Street and Princes Highway intersection.

Issue: *Turning right into Smith Street from the Princes Highway is currently difficult and results in a number of vehicles back-up along the Princes Highway. There is no right hand turn bay into Smith Street from the Princes Highway and there is a bus stop/clearway along the western northbound lane, effectively reducing the northbound traffic to one lane. This will result in customers using Holbeach Avenue and then South Street to access the subject site. This will have significant impacts on the surrounding residential area of East Tempe.*

Comment: The application was referred to the Sydney Regional Development Advisory Committee and the Roads and Maritime Services, who raised no concerns over the proposed development or its potential impact on the operation of the Princes Highway. Council's Development Engineer has recommended the imposition of appropriate conditions requiring further traffic analysis to ensure that the development does not

adversely impact on the operation of Smith Street. This will result in the appropriate programming of the traffic signals at the intersection of Smith Street and the Princes Highway.

Issue: *The proposed development will compound the existing parking and traffic issues already affecting Smith Street residents. The proposed development does not appear to be providing enough parking for customers and staff, which will more than likely increase parking problems for residents and surrounding businesses.*

Comment: The proposal provides an additional 86 parking spaces in excess of those required under Part 2.10 of MDCP 2011. This results in a 40% over supply of parking required under Council's controls. The number of parking spaces provided by the proposed development are considered acceptable in this regard.

Issue: *Concern is raised over the proposed demolition and construction works affecting the structural stability of the adjoining properties along Smith Street.*

Comment: Appropriate conditions of consent have been recommended to ensure that the proposed works do not impact on the structural stability of adjoining properties. These conditions include the submission of dilapidation reports, documenting the existing condition of several adjoining properties.

Issue: *The proposed seven (7) days a week operation of the development means no let up for residents from traffic noise and parking issues.*

Comment: The subject site permits bulky goods premises and the proposed hours of operation are considered acceptable, having regard to the use. Furthermore, the subject site is located within an area identified under the Sydney Metropolitan Strategy and South Subregional Strategy for increased employment opportunities.

Issue: *The road widening will result in the loss of the existing plantings along the Smith Street boundary and will allow large trucks easy access into the premises, which creates more noise at a loss existing vegetation. The trees provide some visual relief from the concrete wall.*

Comment: Appropriate conditions have been recommended to ensure that adequate replacement planting is provided along the Smith Street setback to mitigate the loss of the existing vegetation.

Issue: *The use of the existing delivery entry via the Princes Highway would negate the need for a slip lane into Smith Street, reducing the traffic volumes down Smith Street.*

Comment: The location of the existing the Princes Highway entrance is considered to conflict with the operation of the Princes Highway. It would require

road widening works which would affect the adjoining property to the north. Furthermore, an alternative entrance via a road other than a classified road is required under the State Environmental Planning Policy (Infrastructure) 2007. Therefore, the proposed slip lane along the Princes Highway and road widening works to Smith Street are considered acceptable in this instance. Furthermore, the proposed access arrangements are supported by RMS and the Sydney Regional Development Advisory Committee.

Issue: *The scale of the development is too large for the light industrial premises with a residential interface.*

Comment: The proposal complies with the building setbacks and height controls contained within Marrickville Development Control Plan 2011. The bulk and scale of the development is considered acceptable in this regard and reflects the scale of similar development with the area.

Issue: *Marrickville Council is probably the most liberal/progressive Council in NSW, if not Australia. How can a Council that prides itself on these issues approve a development that will chop down trees, increase pollution in the area, and encourage businesses that, for the most part, are unlikely to have a broad and/or deep corporate and social responsibility platform.*

Comment: Appropriate conditions have been recommended for imposition to ensure that appropriate replacement plantings are incorporated into the landscaping plan. It should be noted that the subject has been specifically identified for use as a bulky good premises. The site is located in an industrial area and will generally reflect the scale of surrounding development. Furthermore, the proposed development is considered consistent with the Sydney Metropolitan Strategy and South Subregional Strategy for increased employment opportunities along the Princes Highway transport corridor.

Issue: *The proposal seeks to removal the street trees located along the Princes Highway, however, the road widening will occur away from these trees and their removal does not seem necessary.*

Comment: The application seeks the removal of existing street trees along the Princes Highway and provided appropriate replacement planting within the front setback of the subject site. The removal of the subject trees allows for the provision of a shared pedestrian and cycleway along the Princes Highway frontage. The application is considered acceptable in this regard.

All relevant matters raised in the submissions able to be considered under the provisions of Section 79C of the Environmental Planning and Assessment Act have been discussed in the report.

11. Conclusion

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

The application was notified in accordance with Council's notification policy and nine (9) submissions were received. Those submissions raised concerns relating to increase traffic, noise, parking and the removal of existing on site vegetation, which have been addressed within this report.

The development will result in a departure with the floor space ratio development standard contained within Clause 4.4 of Marrickville Local Environmental Plan 2011. The application was accompanied by a written objection pursuant to Clause 4.6 of Marrickville Local Environmental Plan 2011 seeking to vary the subject development standard. The objection is considered to be well founded in this instance, as the development will still satisfy the relevant objectives of the floor space ratio development standard.

The proposed development is considered to generally comply with the objectives and controls contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The proposal is considered to result in a form of development which is consistent with the surrounding industrial uses and is consistent with objectives of the relevant zone.

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

PART E - RECOMMENDATION

- A. **THAT** the development application to partially demolish the rear of the existing building, construct new building form and adaptively reuse the remainder of the existing building for two levels of bulky goods tenancies with off street carparking for up to 301 cars, erect signage, subdivide the land to provide a slip lane from the Princes Highway into Smith Street and widening Smith Street on the northern side be **APPROVED** and a **DEFERRED COMMENCEMENT CONSENT** be issued subject to the following terms and conditions:

PART A - DEFERRED COMMENCEMENT CONSENT

The consent will not operate and it may not be acted upon until the Council or its delegate is satisfied as to the following matters:

1. The Traffic Impact Assessment by Transport and Traffic Planning Associates and SIDRA analysis shall be amended so as to use the most current Peak Site and Peak Network generation rates (Average Sydney Metropolitan Area) as outlined in the RMS Technical Direction-TDT2013/04 "Guide to Traffic Generating Developments-Updated traffic surveys" (May 2013) for Bulky Goods retail stores.

The amended Traffic Impact Assessment shall include proposed improvements/changes to the traffic signals and/or other traffic management measures to ensure that the intersection of Smith Street and the Princes Highway continues to operate at a minimum "D" Level of Service (LOS) for the Smith Street leg of the intersection. In the SIDRA analysis actual Heavy Vehicle counts and actual Cycle Times provided by the RMS are to be used rather than the software defaults.

2. The proposed Electrical Kiosks within the internal driveway off Smith Street shall be relocated clear of the driveway to provide for adequate heavy vehicular access and to reduce the potential conflict between heavy vehicles and light vehicle traffic. Amended plans detailing the relocation shall be submitted to Council's satisfaction.
3. Amended plans are required to be submitted to Council's satisfaction detailing all works required to be undertaken to areas of heritage significances, and shall include:
 - a) Details of the methods and locations proposed to secure the signage to the Princes Highway façade of the heritage item. No other changes to the façade of the heritage are approved; and
 - b) Details of any works required to any existing openings within the heritage item to comply with submitted access review and BCA compliance reports.

Evidence of the above matters must be produced to the Council or its delegate within two years of the date of this Determination otherwise the Consent will lapse.

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
A02, Issue 02	Undercroft Floor Plan	15/03/2013	Krikis Taylor Architect	20/03/13
A03, Issue 02	Ground Floor Plan	15/03/2013	Krikis Taylor Architect	20/03/13
A04, Issue 02	First Floor Plan	15/03/2013	Krikis Taylor Architect	20/03/13
A05, Issue	Roof Plan	23/11/2012	Krikis Taylor	20/03/13

01			Architect	
A06, Issue 02	Elevations	15/03/2013	Krikis Taylor Architect	20/03/13
A07, Issue 01	Sections	23/11/2013	Krikis Taylor Architect	20/03/13
A09, Issue 01	Signage Details and Elevations	23/11/2013	Krikis Taylor Architect	20/03/13
A10, Issue 01	Material Board	23/11/2013	Krikis Taylor Architect	20/03/13
A14, Issue 01	Detailed Dimensions of Undercroft Floor Plan	15/03/2013	Krikis Taylor Architect	20/03/13
2519.001-C01, Revision B	Civil Works Site Plan Part A	1/03/13	SEMF Pty Ltd	19/03/13
2519.001-02, Revision C	Civil Works Site Plan Parts B & C	7/03/13	SEMF Pty Ltd	19/03/13
2519.001-SW01, Revision B	Hydraulic Services Site Plan Stormwater Concept Plan	26/02/13	SEMF Pty Ltd	19/03/13
2519.001-SW02, Revision C	Hydraulic Services Ground Floor Plan Stormwater Concept Plan	7/03/13	SEMF Pty Ltd	19/03/13
2519.001-SW03, Revision B	Hydraulic Services Roof Plan Stormwater Concept Plan	26/02/13	SEMF Pty Ltd	19/03/13
L_001	Landscape Concept – Plan	28/09/12	Oculus	27/11/12
L_002	Landscape Concept – Elevations	28/09/12	Oculus	27/11/12
L_003	Landscape Concept – Planting and Materials	28/09/12	Oculus	27/11/12

and details submitted to Council on 27 November 2012, 18 February 2013, 19 March 2013, 20 March 2013, and 17 June 2013 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. A separate Development Application being submitted to, and approved by, Council for the first use of each of the tenancies prior to the occupation of that part of the premises.

Reason: To advise the applicant of the necessity of obtaining Council approval for the first use of the each of the leasable space prior to their occupation.

3. The height of any plant equipment or ancillary structures associated with the three (3) roof plant platforms adjacent to the Princes Highway elevation, detailed on Plan No. A05, Issue 1, dated 23 November 2012, must not exceed RL 29.75.

Reason: To ensure that no plant equipment or associated structures are visible from the Princes Highway.

4. Three hundred (300) off-street car parking spaces being provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

Reason: To ensure practical off-street car parking is available for the use of the premises.

5. Ten (10) motorcycle parking spaces being provided, paved, linemarked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

Reason: To ensure practical off-street car parking is available for the use of the premises.

6. One hundred and fifty (150) bicycle parking spaces being provided, paved, linemarked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

Reason: To ensure practical bicycle parking is available for the use of the premises.

7. Thirty-two (32) accessible car parking spaces being provided, paved, linemarked and maintained at all times in accordance with the standards contained within Part 2.5 of Marrickville Development Control Plan 2011 – Equity of Access and Mobility.

Reason: To ensure that disabled car parking spaces are provided and marked accordingly and that disabled persons are advised and directed to such parking.

8. Twenty (20) car loading spaces and four (4) trailer loading spaces being provided, paved, linemarked and maintained at all times in accordance with the details submitted to Council with the application.

Reason: To ensure practical loading facilities are available for the use of the premises.

9. All parking spaces and turning area thereto being provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and being used exclusively for parking and not for storage or any other purpose.

Reason: To ensure adequate manoeuvrability to all car parking spaces and that the spaces are used exclusively for parking.

10. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.

Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.

11. The use of the premises not giving rise to:

- a) transmission of unacceptable vibration to any place of different occupancy;
- b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).

NOTE: Marrickville Council has adopted a 3dB(A) goal in order to prevent background noise creep and the 5dB(A) criteria as outlined in the above mentioned references are not to be used.

Reason: To prevent loss of amenity to the area.

12. The signage being erected substantially in accordance with the Plan No. A09, Issue 1, dated 23 November 2012 and details submitted to Council satisfying Part A of this consent.

Reason: To confirm the details of the application as submitted by the applicant.

13. A separate application being submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures other than the signage approved in this consent.

Reason: To confirm the terms of Council's approval.

14. The signage must:

- a) not flash, move, be animated, or be decorated with rotating or flashing lights at any time;
- b) not have any apparatus attached to it which will provide sound of any description whether associated with the sign or other object or activity;
- c) be neatly affixed to the building and any damage to the building caused to the exterior of the building by the erection of the advertising structure shall be promptly repaired with materials to match those of the existing building;
- d) comply with the Advertising Code of Ethics; and
- e) comply with the requirements of the Roads and Traffic Authority.

Reason: To confirm the terms of Council's approval.

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

Reason: To prevent the public footpath from being obstructed.

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

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

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

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

18. The hours of operation being restricted to between:

Mondays – Saturdays (excluding Thursday): 9.00am to 6.00pm

Thursdays: 9.00am to 9.00pm

Sundays and Public Holidays: 10.00am to 6.00pm

Reason: To confirm the hours of operation as requested.

19. The developer liaising with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced.

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

Reason: To provide for correct storage of wastes.

21. All building work shall be carried out in accordance with the provisions of the Building Code of Australia.

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the Building Code of Australia.

22. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.

Reason: To provide for adequate site drainage.

23. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3.2-

1998 'Stormwater Drainage-Acceptable Solutions' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To provide for adequate site drainage.

24. The person acting on this consent shall comply with the following requirements of Roads and Maritime Services (RMS):

- a) All vehicles shall enter and exit the site in a forward direction;
- b) All traffic control during construction must be carried out by accredited RMS approved traffic controllers; and
- c) All works/regulatory signposting associated with the proposed development are to be at no cost to RMS or Council.

Reason: To comply with the requirements of RMS.

25. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Energy Australia directly with regard to the possible provision of such an installation on the property.

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

26. Significant interior finishes within the retained elements of the building shall be conserved including but not limited to the flooring and floor coverings, lighting and electrical fixtures, walls and surface finishes, tiles, bathroom fixtures and fittings, signage, handrails and balustrades, ceilings, window and door hardware, and windows and doors.

Reason: To preserve the heritage significant elements of the building.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the Building Code of Australia.

27. Before any works commence on site, all contractors and subcontractors shall undergo an induction highlighting the historical significance of the site and in particular those building elements and archaeology requiring conservation.
Reason: To ensure appropriate training and understanding of the significance of the site is provided to all contractors for the conservation of the heritage item and archaeology.
28. Before any works commence on site, the Applicant must apply to the Heritage Council of NSW for a Section 140 Heritage Act Approval and comply with any and all conditions of such approval. This application will need to be accompanied by an appropriate Archaeological Assessment and Archaeological Research Design and Methodology.
Reason: To comply with the requirements of the Heritage Council of New South Wales.
29. Before any works commence on site, an Archival Photographic Recording in accordance with Council's "Guide to Archival Photographic Recording" shall be submitted to the satisfaction of Council's Heritage and Urban Design Advisor: <http://www.marrickville.nsw.gov.au/marrwr/assets/main/lib65120/guide%20to%20archival%20records%202012.pdf>
Reason: To archive all heritage significant elements of the subject building.
30. No work shall commence until:
- a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council shall be notified within two (2) days of the appointment; and
 - b) A minimum of two (2) days written notice given to Council of the intention to commence work.
- Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
31. A Construction Certificate shall be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
32. Sanitary facilities are to be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet shall be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities are to be located so that they will not cause a nuisance.
Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.
33. All demolition work shall:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

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

- 34. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division shall be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

- 35. All services in the building being demolished are to be disconnected in accordance with the requirements of the responsible authorities before work commences.

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

- 36. A Recycling and Waste Management Plan prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 - Recycling and Waste Management shall be submitted to and approved by the Principal Certifying Authority before work commences and include the following minimum details:

- a) Estimated volumes of the type and nature of waste likely to be generated as a result of the excavation, demolition and construction works;
- b) Details of where waste will be stored on site throughout all phases of excavation, demolition and construction works; and
- c) Details of the contractor responsible for removing waste and location of disposal.

Reason: To ensure the appropriate disposal and reuse of waste generated on the site.

- 37. A rigid and durable sign shall be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign is to include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

- 38. A Soil and Water Management Plan shall be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater

(Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document shall be submitted to and accepted by PCA before work commences. The plan shall indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
- d) How access to the site will be provided.

All devices shall be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

39. The person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before work commences, on the adjoining buildings and structures on the properties at 1 Smith Street, 3 Wood Street, 5 Wood Street and 6 Wood Street and 634-726 Princes Highway, if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received shall be forwarded to the PCA before work commences.

Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.

40. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before commencement of works.

Reason: To ensure the existing condition of Council's infrastructure is clearly documented.

41. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Reason: To ensure all necessary approvals have been applied for.

42. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised works as noted in Council's adopted fees and charges.

Reason: To ensure that all restoration works are in accordance with Council's Code.

43. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent shall submit a hoarding application and pay all relevant fees before commencement of works.

Reason: To secure the site and to maintain public safety.

44. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include proposed truck parking areas, construction zones, crane usage, truck routes, number of trucks, hours of operation, access arrangements and traffic control.

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

45. With regard to changes to RMS's drainage system detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to RMS for approval, before commencement of works. Details should be forwarded to:

**The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.**

A plan checking fee will be payable and a performance bond may be required before RMS's approval is issued. With regard to the Civil Works requirement please contact RMS's Project Engineer, External Works Telephone: 8849 2114 or Fax: 8849 2766. A copy of the approved plans shall be submitted to Council for its records.

Reason: To comply with the requirements of RMS.

46. The developer shall submit design drawings and documents relating to the excavation of the site and support structures to RMS for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks before commencement of works and is to meet the full cost of the assessment by RMS. The report and any enquiries should be forwarded to:

**Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8848 2114
Fax 8849 2766**

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the

owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Reason: To comply with the requirements of RMS.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

47. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing the reuse of the existing brick fence and metal railing along the Princes Highway frontage in the reconstruction of a new wall in the location of the new boundary.

Reason: To ensure the preservation of heritage significant elements of the site.

48. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing sufficient soil volumes being reflective of the size of the planting beds or other strategies that will ensure adequate soil volume and planting conditions are provided for the proposed landscaping. The amended landscaping details are to be approved by an Arborist who has a minimum AQF Level 5 qualification in arboriculture.

Reason: To ensure adequate provisions are made for the on site landscaping.

49. Before the issue of any Construction Certificate, an interpretation plan must be prepared by an experienced heritage interpretation practitioner and submitted to the satisfaction of the Heritage Council of NSW. Written confirmation from the Heritage Council shall be provided to the Certifying Authority. The Interpretation Plan shall be in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" 2005. The plan must make allowance for the display of potential archaeology uncovered during the works, interpret the multiple uses and history of the site, in a way that is engaging, informative and readily accessible to the majority of visitors at the site.

Reason: To protect and preserve any potential archaeology discovered on site.

50. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Access Review report, prepared by Morris Goding Accessibility Consulting, dated 30 August 2012 and submitted to Council on 27 November 2012 have been incorporated into the development.

Reason: To ensure the proposed development incorporates the measures recommended within the report.

51. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Energy Performance report, prepared by

SEMF, dated October 2012 and submitted to Council on 27 November 2012 have been incorporated into the development.

Reason: To ensure the proposed development incorporates the measures recommended within the report.

52. Before the issue of any Construction Certificate, amended plans and details are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Archaeological Assessment and Research Design report, prepared by Godden Mackay Logan, dated November 2012 and submitted to Council on 27 November 2012 have been incorporated into the development.

Reason: To ensure the proposed development incorporates the measures recommended within the report.

53. Before the issue of any Construction Certificate, the Certifying Authority must be satisfied that all recommendations contained within the Detailed Site Investigation report, prepared by Coffey Environments Australia Pty Ltd, dated 17 June 2013 and submitted to Council on 17 June 2013 have been satisfied. Any remediation works must comply with the requirements prescribed within Part 2.24 of Marrickville Development Control Plan 2011 and the Detailed Site Investigation report.

Reason: To ensure the proposed development incorporates the measures recommended within the report.

54. Before the issue of any Construction Certificate, amended plans are required to be submitted to the satisfaction of the Certifying Authority detailing all recommendations contained within the Geotechnical Deck Study report, prepared by Coffey Geotechnics Pty Ltd, dated 13 August 2012 and submitted to Council on 27 November 2012.

Reason: To ensure the proposed development incorporates the measures recommended within the report.

55. Noise attenuation measures being incorporated into the development complying with Australian Standard 2021:2000 in relation to interior design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction), in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2000.

Reason: To reduce noise levels within the proposed development from aircraft.

56. A total monetary contribution of \$254,931.65 has been assessed as the contribution for the development under Section 94 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2004 (a copy of which may be inspected at the offices of the Council). The contribution is towards:

- a) \$248,956.69 Section 94 Contributions Plan 2004 for Tempe Area - Traffic Management; and
- b) \$5,974.96 Plan Administration.

The monetary contributions above are the Council's adopted contributions under the current Fees and Charges Schedule. Under Marrickville Section 94/94A Contributions Plan 2004, contributions will be adjusted at the time of payment in line with any change in the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics. The adjusted contribution payable will be the rate in the Council's adopted Fees and Charges Schedule for the financial year in which the contribution is paid.

The contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) before the issue of a Construction Certificate**. Under Marrickville Section 94/94A Contributions Plan 2004 payment of Section 94 contributions **CANNOT** be made by Personal Cheque, Company Cheque or Credit Card.

NOTE: The above Contributions apply to end of Financial Year 2013/2014 after which the Contributions will be indexed.

Reason: To ensure provision is made for the increased demand for public amenities and services required as a consequence of the development being carried out.

57. Evidence of payment of the building and construction industry Long Service Leave Scheme, shall be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

58. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any

Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

59. The person acting on this consent shall pay to Council Section 138 (Roads Act) inspection fees in the amount of \$627.00 (GST inclusive) before the issue of a Construction Certificate to ensure the proper completion of the public domain civil works resulting from this development.

Reason: To ensure the proper completion of the public domain civil works.

60. In order to provide satisfactory vehicular and pedestrian access adjacent to the site, the following road and footpath works shall be undertaken in accordance with Council's standard plans and specifications (AUS-SPEC#1-"Development Specifications") and RMS's requirements. All Works shall be at no cost to Council or the RMS and shall be constructed before the issue of the Occupation Certificate. The works shall include the following:

- a) Provision of a new road pavement and 2.5 metres footpath for the proposed road widening in Smith Street. The civil works plans (519.001-C01 Rev B and 2519.001-C02 Rev C shall be amended to provide a consistent carriageway width (kerb to kerb) of 11.6 metres and a minimum width footpath of 2.5 metres to allow for a shared pedestrian/cycle path;
- b) Relocation and/or augmentation of existing Council and RMS stormwater drainage to suit the road alignments. In addition a full detailed design and long section of the proposed new Smith Street drainage shall be provided;
- c) A new footpath along the Princes Highway shall be reconstructed as a 3 metres shared pedestrian/cycle path;
- d) All footpaths to be reconstructed shall be to Councils Standard Plan "F3" with a 3% positive cross fall from the existing kerb (assuming a 150mm high kerb) to the site boundary;
- e) The construction of industrial duty concrete vehicular crossings at the proposed vehicular access locations;
- f) The removal of all redundant vehicular crossings to the site of the proposed development and replacement with kerb, gutter and footpath paving;
- g) The repair and/or construction of any existing damaged or otherwise defective kerb, gutter, footpath and road pavement adjacent to the site of the development;
- h) All adjustments to public utilities including street lighting required by these works; and
- i) The existing power pole in the widened section of Smith Street shall be removed and the power placed underground.

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

Reason: To provide means of public road vehicle and pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.

61. The proposed deceleration lane on the Princes Highway shall be designed to meet RMS's requirements and shall be endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to RMS for consideration and approval before the issue of a Construction Certificate. The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the Works Authorisation Deed (WAD) will need to be executed prior to RMS's assessment of the detailed civil design plans. RMS fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The entire length of the deceleration lane is to be signposted "No Stopping". A copy of the RMS approved plans shall be submitted to Council for its records before commencement of the works.

Reason: To comply with the requirements of the RMS.

62. A detailed Traffic Signal design for the reconfigured intersection of Smith Street and the Princes Highway shall be submitted for the approval of Roads and Maritime Services (RMS) and Council before the issue of a Construction Certificate.

Reason: To ensure the works meet Council and RMS requirements.

63. The alignment levels for the site at the boundaries shall match the adjacent "top of kerb" height (assuming a 150mm high kerb) plus 3%. This will require the internal site levels to be adjusted locally at the boundary to ensure that they match the above issued alignment levels. Amended plans detailing the alignment levels (at 20m intervals) shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: In accordance with Council's powers under the Roads Act, 1993, alignment levels at the property boundary will be required to accord with Council's design.

64. Vehicular access and associated vehicle standing areas shall be designed in accordance with Australian Standard AS 2890.1-2004, Australian Standard AS 2890.2-2002, and Australian Standard AS 2890.6-2009. Amended plans complying with the above standards and including the following amendments/additional information shall be provided for approval:

- a) Removal of the proposed electrical kiosks from the driveway access;
- b) Details of all signage and line marking for the driveway access and carpark areas;
- c) Provision of "no left turn signage" at the egress into Smith Street to ensure vehicles leaving the site turn right;
- d) The provision of traffic control devices such as speed humps where parking aisle lengths are more than 100 metres in accordance with Clause 2.3.3 of AS 2890.1-2004; and

- e) The provision of adequate pedestrian circulation in accordance with Clause 4.1 of AS 2890.1-2004.

Details of compliance with the above requirements shall be submitted to Council for approval before the issue of a Construction Certificate.

Reason: To provide for satisfactory vehicular and pedestrian access to the site.

65. The person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter. The person acting on this consent must liaise with Council's bus shelter service provider to organise the relocation at no cost to Council. The shelter shall be located adjacent to the site and within the property boundaries (with provision of a suitable easement) so as to maintain a 3 metres clear footpath along the Princes Highway. A plan of the proposed bus shelter relocation with signposting alterations shall be submitted to the RMS and Council for approval before the issue of a Construction Certificate.

Reason: To ensure that the proposed Bus Stop and Bus Shelter are relocated to a suitable location at no cost to Council.

66. The land required for the realignment of the boundaries and for road widening along the Princes Highway and Smith Street shall be dedicated as public road before the issue of an Occupation Certificate at no cost to RMS and Council. Amended plans clearly detailing the above dedications shall be submitted to Council before the issue of a Construction Certificate.

Reason: To provide road widening to facilitate adequate vehicle and pedestrian access to the site.

67. The stormwater drainage concept plans 2519.001-SW01 to 2519.001-SW04 and proposed water quality treatment measures outlined in the Stormwater Management Report submitted by SEMF P/L (12/10/12) are generally acceptable subject to the following amendments/additional details being submitted to and approved by Council before the issue of a Construction Certificate:

- a) Inclusion of all stormwater treatment and re-use measures as detailed in the Stormwater Management Report submitted by SEMF P/L dated 12/10/12;
- b) A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken;
- c) Detailed design and calculations for the proposed extension of Council's stormwater system in Smith Street. Council's drainage line shall be designed for a 1 in 20 storm event; and
- d) Investigation of the adequacy of the existing stormwater line through 6 Wood Street (Brissett Rollers Site). The investigation shall include a CCTV inspection of pipe to ensure the pipe is satisfactory condition and if required shall propose remedial measures to ensure the pipe is in satisfactory working order. The pipe shall also be inspected by CCTV

upon completion of the building works to ensure no siltation of the pipe has occurred.

Reason: To provide for assessment of the proposed stormwater drainage and to ensure that the site use of potable water is minimised.

68. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

69. Payment of a Bond, in the sum of \$230,000 for the proper performance of Road/Drainage works before the issue of a Construction Certificate. The security may be provided in one of the following methods:

- a) in full in the form of a cash bond; or
- b) by provision of a Bank Guarantee by an Australian Bank in the following terms:
 - i) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing;
 - ii) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent; and
 - iii) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Reason: To ensure all Road/Drainage works are completed within a reasonable time.

BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE

70. The submission of a final survey plan and five (5) copies for the proposed subdivision.

Reason: To comply with Council's requirements.

71. The payment of the required fee, under Council's adopted fees and charges, for the approval of the final plan under the terms of Section 109J of the Environmental Planning and Assessment Act.

Reason: To comply with the requirements of that Act.

72. All instruments used to create easements, rights and/or restrictions as to user including in them provisions that such may not be revoked or modified without the prior approval of Council.

Reason: To ensure that such instruments are not revoked or modified without the prior approval of Council.

SITE WORKS

73. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, being restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work being carried out on any Saturday that falls adjacent to a Public Holiday.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

74. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

75. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and shall comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'. Enquiries are to be made with Council's Infrastructure Services Division.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

76. All demolition work being carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
- b) all works involving the demolition, removal, transport and disposal of asbestos cement is to be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
- c) all building materials arising from the demolition are to be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 - Recycling and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications are to be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;

- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, only having access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site being deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent is responsible for ensuring that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

77. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:

- a) At the commencement of the building work;
- b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
- c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the Building Code of Australia.

78. If the development involves any excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and

- c) at least seven (7) days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

79. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

80. A certificate of survey from a registered land surveyor shall be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

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

BEFORE OCCUPATION OF THE BUILDING

81. Before the issue of an Occupation Certificate, the person acting on this consent shall submit to Council a Plan of Management for the operation of site. The Plan of Management shall be prepared in accordance with guidelines contained within Marrickville Development Control Plan 2011, and shall include but not limited to operational details, hours of operation, staffing detail, delivery details, customer handling policy, security measures, complaint recording and handling procedures and a review process.

Reason: To ensure an adequate framework and policy is in place to protect the amenity of the adjoining development and manage the ongoing operation of the site.

82. Before the issue of an Occupation Certificate, the person acting on this consent shall submit to Council a Loading Dock Delivery Management Plan for the site. Delivery times shall be managed so as to reduce conflict between heavy vehicles and other traffic accessing the site during peak times. Six months and 18 months after commencement of operations the applicant shall investigate

and report on the effectiveness of the plan and undertake any reasonable improvements required by Council.

Reason: To provide adequate loading and unloading for the site and reduce possible conflict between heavy vehicles and the costumers accessing the site.

83. You shall obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA shall notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within two (2) days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

84. Occupation of the building shall not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

85. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, shall:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner shall obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate shall be

forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

86. a) Upon completion of the required noise attenuation measures referred to in the “Before the Issue of a Construction Certificate” Section of this Determination, and prior to the occupation of the building a report being prepared and submitted to the Certifying Authority’s satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2000 as set down in the subject condition of this consent. Such report shall include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures shall be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

Reason: To reduce noise levels within the proposed development from aircraft and to ensure that the proposed noise attenuation measures incorporated into the development satisfactorily comply with the relevant sections of Australian Standard 2021-2000.

87. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council’s Standard crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications”.

Reason: To ensure that the person acting on this consent completes all required work.

88. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council.

89. No encroachments onto Council’s road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of an Occupation Certificate.

Reason: To ensure there is no encroachment onto Council’s road.

90. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of an Occupation Certificate and at no cost to Council.
Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.
91. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of an Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.
Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.
92. Before the issue of an Occupation Certificate, written verification from a suitably qualified competent person, stating that all stormwater drainage, re-use and quality measures have been constructed in accordance with the approved plans and the Stormwater Management Report submitted by SEMF P/L (12/10/12) shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
Reason: To ensure drainage works are constructed in accordance with approved plans.
93. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications. In addition, full works-as-executed plans in both PDF and CAD format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council before the issue of an Occupation Certificate.
Reason: To ensure that works are carried out to a proper standard.
94. The person acting on this consent shall provide security, in a manner satisfactory to Council, for the proper maintenance of the road/drainage works in an amount of \$23,000 for a period of twelve (12) months from the date of completion of the Road/Drainage works as surety for the proper maintenance of the Road/Drainage works.
Reason: To provide security for the maintenance of Road/Drainage works for a 12 month maintenance period.

95. The person acting on this consent shall, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the person acting on this consent fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security and Council may recover any costs in excess of the security from the person acting on this consent.

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

96. With the regard to the Stormwater Treatment Facilities a Positive Covenant shall be placed on the Title in favour of Council before issue of an Occupation Certificate. The Positive Covenant shall include the following:

- a) The proprietor of the property shall be responsible for maintaining the stormwater treatment facilities as outlined in the Stormwater Management Report submitted by SEMF P/L, dated 12/10/12;
- b) The Proprietor shall have the stormwater quality treatment facilities inspected annually by a competent person and must provide the WSUD maintenance plan approved under this Consent to the competent person to record the annual inspections; and
- 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 all elements of the stormwater quality treatment facilities to ensure that the water quality targets provided in the design of the system are achieved; and recover the costs of any such works from the proprietor.

Reason: To ensure that the integrity of the stormwater quality treatment facilities is maintained.

97. With the regard to the On Site Detention System (OSD), a Positive Covenant generally in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code shall be placed on the title in favour of Council before the issue of an Occupation Certificate.

Reason: To ensure that the integrity of the OSD system is maintained and to comply with Marrickville Council Stormwater and On Site Detention Code.

98. All instruments under Section 88B of the Conveyancy Act used to create positive covenants easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.

Reason: To ensure Council's interests are protected.

99. Before the issue of an Occupation Certificate, the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Civil Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

Reason: To ensure that all Road, Footpath and Civil Works required to be undertaken as a result of this development have been completed satisfactorily.

100. Before the issue of an Occupation Certificate, the person acting on this consent shall provide written evidence to the satisfaction of the Certifying Authority that the Heritage Council of NSW is satisfied with the completion of all on-site archaeological and/or interpretation works.

Reason: To comply with the requirements of the Heritage Council of NSW.

101. Before the issue of an Occupation Certificate, the Certifying Authority is to be satisfied that all landscape works, including the street tree planting have been undertaken in accordance with the approved plan and conditions of this consent.

Reason: To ensure that the landscape works are consistent with the development consent.

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the Building Code of Australia has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- Buildings built or painted before the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned before occupation of the room or building.

Further information and brochures on how to reduce exposure to lead based paints is available from Council's Planning and Environmental Services Division, ☎9335-2222.

- Contact “Dial Before You Dig” before commencing any building activity on the site.

- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of “Soils and Construction”
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
Marrickville Council	☎ 9335 2222 www.marrickville.nsw.gov.au Copies of all Council documents and application forms can be found on the web site.
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA	☎ 1300 651 116

Environmental Solutions	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	☎ 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the Council's determination of the application.
- C. THAT** the Department of Planning and Infrastructure be advised, as part of the quarterly review of the monitoring of Clause 4.6 Exceptions to Development Standards of Marrickville Local Environmental Plan 2011, that the Joint Regional Planning Panel has agreed to the variation of the subject development standard:

<u>Premises:</u>	728-750 Princes Highway, Tempe
<u>Applicant:</u>	Urbis Pty Ltd
<u>Proposal:</u>	To partially demolish the rear of the existing building, construct new building form and adaptively reuse the remainder of the existing building for two levels of bulky goods tenancies with off street carparking for up to 301 cars, erect signage, subdivide the land to provide a slip lane from the Princes Highway into Smith Street and widening Smith Street on the northern side.
<u>Determination:</u>	Deferred Commencement Consent
<u>DA No:</u>	201200528
<u>Lot and DP:</u>	Lot 2 in DP 803493
<u>Category of Development:</u>	8
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	IN2 - Light Industrial
<u>Development Standard(s) varied:</u>	Clause 4.4 - Floor Space Ratio
<u>Justification of variation:</u>	The applicant provided the following environmental planning grounds to justify the contravention of the development standard: <ul style="list-style-type: none"> • <i>The proposed development is entirely consistent with the underlying objective or purpose of the standard;</i> • <i>The building envelope is consistent with the existing building envelope and maintains the existing scale and bulk on the site;</i>

- *The proposed development will not significantly impact on the amenity of adjoining occupiers;*
- *The proposed development will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties in Smith Street; and*
- *The proposed development complies with all other standards of the LEP 2011 and will create a negligible impact on the locality and its surrounds.*

This exception to the development standard demonstrates that the proposed variation should be supported because:

- *The proposed building FSR is consistent with the underlying objectives of the standard;*
- *The site is surrounded by existing buildings to the north, of a similar density, scale and bulk;*
- *The proposed variation does not result in any unreasonable privacy, sunlight, view loss or visual impacts;*
- *The proposed variation to the standard does not raise any matter of significance for State or regional environmental planning;*
- *There is no public benefit in maintaining strict compliance with the standard;*
- *Strict application of the standard is therefore unreasonable and unnecessary in the circumstances of the case; and*
- *Overall, it is considered that the proposed variation to the maximum FSR control (12.3%) is entirely appropriate and can be clearly justified having regard to the matters listed within LEP Clause 4.6.*

Extent of variation:
Concurring Authority:

12.8% or 2495.99sqm
Joint Regional Planning Panel under assumed concurrence of the Director General of the Department of Planning and Infrastructure

Date of Determination: