

Summary

This report concerns an application to demolish the existing improvements and construct a 5 storey development consisting of a residential flat building (Building A) containing 42 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 38 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces.

The application was notified in accordance with Council's Notification Policy and 14 submissions were received. This development has been classified as being 'Traffic Generating Development' under Environmental Planning & Assessment Regulation 2000. The application was referred to Roads and Maritime Services (RMS) for comment under Section 138 of the Roads Act 1993.

The development has a capital investment value (CIV) of \$24,564,732. Applications with a CIV of more than \$20 million must be referred to the Joint Regional Planning Panel (JRPP) to exercise its consent authority functions under Schedule 4A of Environmental Planning and Assessment Act 1979.

The proposal generally complies with the aims, objectives and design parameters contained in State Environmental Planning Policies (SEPPs), Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011). The development has a variation from the maximum building height and floor space ratio (FSR) development standards contained within MLEP 2011. Written submissions under Clause 4.6 of MLEP 2011 in relation to the height of buildings and FSR departures accompanied the application which are considered to be well founded and worthy of support.

The potential impacts to the surrounding environment have been considered as part of the assessment process. The application has been amended to address comments raised by Council Officers and Council's Architectural Excellence Panel. Any potential impacts from the amended development are considered to be acceptable given the context of the site and the development is considered to be a good outcome and results in a mixed use building of high architectural merit.

The application is suitable for approval subject to the imposition of appropriate conditions. A deferred commencement condition is included in the recommendation to address remediation.

PART A - PARTICULARS

Location: Northern side of New Canterbury Road, Dulwich Hill between Ross Street and Old Canterbury Road.



Image 1: Location Map

DA No: 201500081

JRPP Reference No: 2015SYE034

Application Date: 3 March 2015. Additional information submitted on 3 March 2015, 7 May 2015, 25 June 2015, 29 June 2015 and 21 August 2015.

Proposal: To demolish the existing improvements and construct a 5 storey development consisting of a residential flat building (Building A) containing 42 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 38 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces.

Applicant: Haralambis Constructions Pty Ltd

Estimated Cost: \$24,564,732

Zoning: B2 Local Centre

PART B - THE SITE AND ITS CONTEXT

Improvements: 801 New Canterbury Road: Single storey dwelling house
803 New Canterbury Road: 2 storey commercial building
805 New Canterbury Road: At grade car park with sheds at rear
807 New Canterbury Road: 1 storey commercial building with car park



Image 2: The Site



Image 3: New Canterbury Road frontage looking east towards 793-799 New Canterbury Road



Image 4: New Canterbury Road frontage looking east towards 819 New Canterbury Road



Image 5: Southern side of New Canterbury Road opposite the site in the Canterbury City Council local government area



Image 6: 793-799 New Canterbury Road's western façade looking east from the site



Image 7: Rear area of the site



Image 8: 30-34 Cobar Street, Dulwich Hill, a 3 storey residential flat building located directly to the north of the site



Image 9: 819 New Canterbury Road's eastern facade, looking west from the site



Image 10: Centre of the site looking north

Current Use: 801 New Canterbury Road: Dwelling House
803-807 New Canterbury Road: Car dealership

Prior Determinations: 801-807 New Canterbury Road:

Determination No. 11307, dated 4 November 1987, approved an application to demolish an existing dwelling and garage and use the premises for motor vehicles sales, servicing and spare part sales with associated car parking.

Environment: Mixed use development along New Canterbury Road, with residential uses in Cobar Street and Ross Street.

PART C - REQUIREMENTS

1. Zoning

Is the proposal permissible under zoning provisions in B2 Local Centre Zone?

Yes, subject to Clause 5.3 of MLEP 2011 and the zoning provisions in the R1 General Residential zone.

2. Development Standards (Statutory Requirements):

Type	Required	Proposed
Height of Buildings (max)	14 metres	17.7 metres
Floor Space Ratio (max)	1.75:1	2.35:1

3. Departures from Development Control Plan:

Type	Required	Proposed
Overshadowing	Discussed in the report	
Setback Controls	Discussed in the report	
Dwelling Mix	Discussed in the report	

4. Community Consultation:

Required: Yes (newspaper advertisement, on-site notice and resident notification)
 Submissions: 14 submissions

5. Other Requirements:

Roads Act 1993
 State Environmental Planning Policy No. 55 – Remediation of Land
 State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
 State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (Amendment 3)
 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 State Environmental Planning Policy (Infrastructure) 2007
 State Environmental Planning Policy (State and Regional Development) 2011
 ANEF 2033 Affection (below 20 ANEF)
 Marrickville Section 94/94A Contributions Plan 2014

PART D - ASSESSMENT

1. The Site and Surrounds

801-807 New Canterbury Road, Dulwich Hill is located on the northern side of New Canterbury Road between Ross Street and Old Canterbury Road. The site is legally described as:

- Lot 6 in DP 4040;
- Lot B in DP 937092;
- Lot 1 in DP 104521; and
- Lot 4 in DP 1125682.

The following characteristics relate to the site:

- It is relatively regular in shape with the exception of a recess along the northern boundary;
- Total area of 3,070m²;
- 53.08 metre frontage to New Canterbury Road;
- Existing structures on the site vary between 1 and 2 storeys in form.

The site is currently occupied by a single storey free standing dwelling house at 801 New Canterbury Road and a former car dealership at 803-807 New Canterbury Road. The site is generally flat with a slight slope towards the east with surface levels varying from RL 43.5 to RL 41.59. Large areas of the site consist of at-grade concrete areas as a result of its former use. One large English Oak tree is located towards the centre of the site.

Immediately to the north of the site are 2 sites containing 3 storey residential flat buildings at 30-34 Cobar Street and 36 Cobar Street. To the east of the site is a mixed use development at 793-799 New Canterbury Road, comprising 3 commercial tenancies and 24 residential apartments which has been recently completed. The building has a 3 storey podium with the 4th storey setback approximately 4 metres from New Canterbury Road. Further east from the site the streetscape generally consists of period mixed use developments of a varying heights of between 2 to 4 storeys. The site adjoining 819 New Canterbury Road, a single storey commercial tenancy to the west of the site. Further west, buildings range from 1 to 3 storeys in height. Directly to the south of

the site is St Stephano's Church. Generally, single storey dwellings and mixed use developments front the opposite side of New Canterbury Road, which is located within the City of Canterbury local government area. The southern part of New Canterbury Road has recently been up-zoned to allow for increased density under the Canterbury LEP 2012 with a building height of 18 metres and no FSR control, only building envelope controls.

Hurlstone Park Railway Station is located approximately 710 metres to the south of the site, while Dulwich Grove light railway station is located approximately 780 metres to the east of the site along New Canterbury Road.

2. Background

On 13 March 2015 Council sought additional information from the applicant to address the following concerns:

- A Model for Urban Stormwater Improvement Conceptualisation (MUSIC) to determine stormwater quality impacts from the development;
- Relocation of the driveway directly adjacent the existing driveway at 793-799 New Canterbury Road;
- Potential overlooking impacts from the north facing balconies adjacent the eastern boundary in Building B;
- Concerns regarding the street awning on New Canterbury Road; and
- Amended plans were received by Council on 25 March 2015.

The original proposal was reviewed by the Council Architectural Excellence Panel (AEP), who provided the following comments:

- In general the proposal is supported in terms of its architectural quality and its proposed bulk and scale.
- Issues requiring further detail or alternative solutions are listed below:
 - a) Consider enlargement of residential lobbies;
 - b) Provide detail on privacy to the bedrooms facing the central courtyard;
 - c) Clarify the access from retail uses to the central courtyard area;
 - d) Clarify garbage store size requirements on the ground floor and collection strategy.

In correspondence with the applicant, Council Officers also raised concerns in relation to overshadowing of adjoining properties and requested an amended proposal which stepped down to a lower scale on the eastern boundary. The originally submitted development proposed a nil setback and substantial bulk on the eastern boundary adjoining a recently constructed mixed use development at 793-799 New Canterbury Road. The amended proposal increased side setbacks of proposed Building A to the eastern boundary to improve solar access to the adjacent eastern property.

The applicant submitted further amended plans on 7 May 2015 to address AEP's and Council Officer's comments.

On 12 May 2015 Council sought additional documentation from the applicant to address the following concerns:

- Modifications to basement excavation in relation to the proximity to 799-793 New Canterbury Road;
- Notation of storage space in each unit;
- Updated landscape plan to reflect the proposed driveway arrangement;

- Location of the proposed screens for the adjacent residential flat building at 30-34 Cobar Street;
- Clarification of GFA calculations;
- Revised Clause 4.6 statements and BASIX Certificate to address the amended design;
- Clarification of unit types notated on the floor plans;
- Amend traffic statement to address the amended plans; and
- Amend driveway and traffic island design to reflecting comments from the Pedestrian, Cyclist and Traffic Calming Advisory Committee (Traffic Committee) and Roads and Maritime Services (RMS).

Following further discussion, Council requested the following additional details:

- On 3 June 2015 to address concerns the interface of Building A with the properties in Cobar Street. Amended plans were received on 10 June 2015.
- On 23 June 2015 to address concerns recycling and waste management of the site.

This assessment report is based on the amended plans submitted to Council on 29 June 2015 and 21 August 2015. The final details provided by the applicant are considered to address all of Council's concerns in relation to the proposal.

3. The Proposal

Approval is sought to demolish the existing improvements and construct a 5 storey development consisting of a residential flat building (Building A) containing 42 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 38 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces. The proposal includes public domain improvements including undergrounding of the overhead electrical wires along the New Canterbury Road frontage.

Built form

The proposal has 2 main buildings described as follows:

- Building A is located on the north of the site and comprising a 5 storey residential flat building containing 42 apartments;
- Building B is located on the New Canterbury Road frontage and is a shop top housing development with 3 commercial tenancies on the ground floor and residential apartments in the 4 floors above containing 38 apartments;
- Both buildings have a north-south orientation; and
- A central communal open space area with landscaping is proposed to be located between both buildings in the centre of the site.

Parking

Basement B2: 66 car spaces (including 4 tandem spaces)
Basement B1: 42 car spaces (including 3 tandem spaces)
Total: 108 car spaces

Vehicular access is proposed to be from New Canterbury Road. The redevelopment also includes the removal of a large tree (English Oak) in the centre of the site.

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



Image 11: Photomontage of the New Canterbury Road Frontage



Image 12: Photomontage of the central courtyard between Building A and Building B

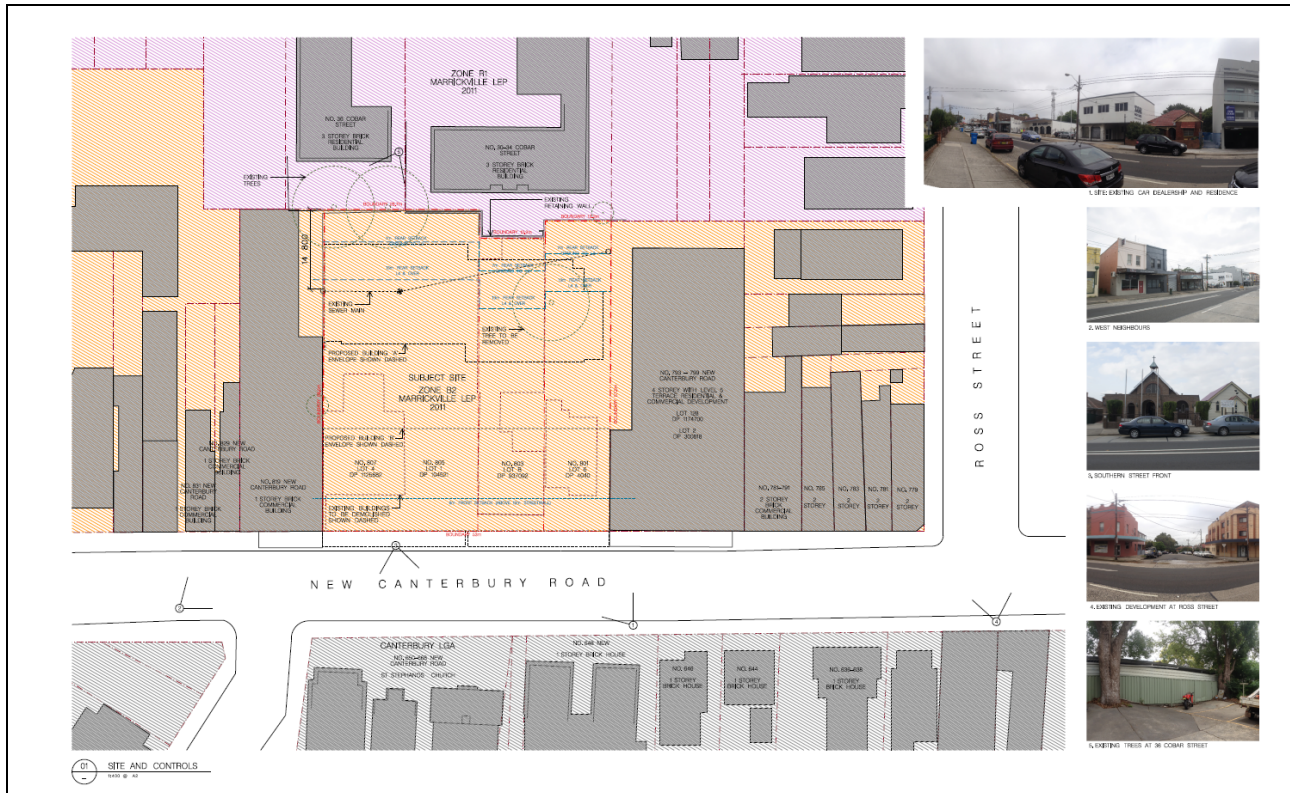


Image 13: Site Plan

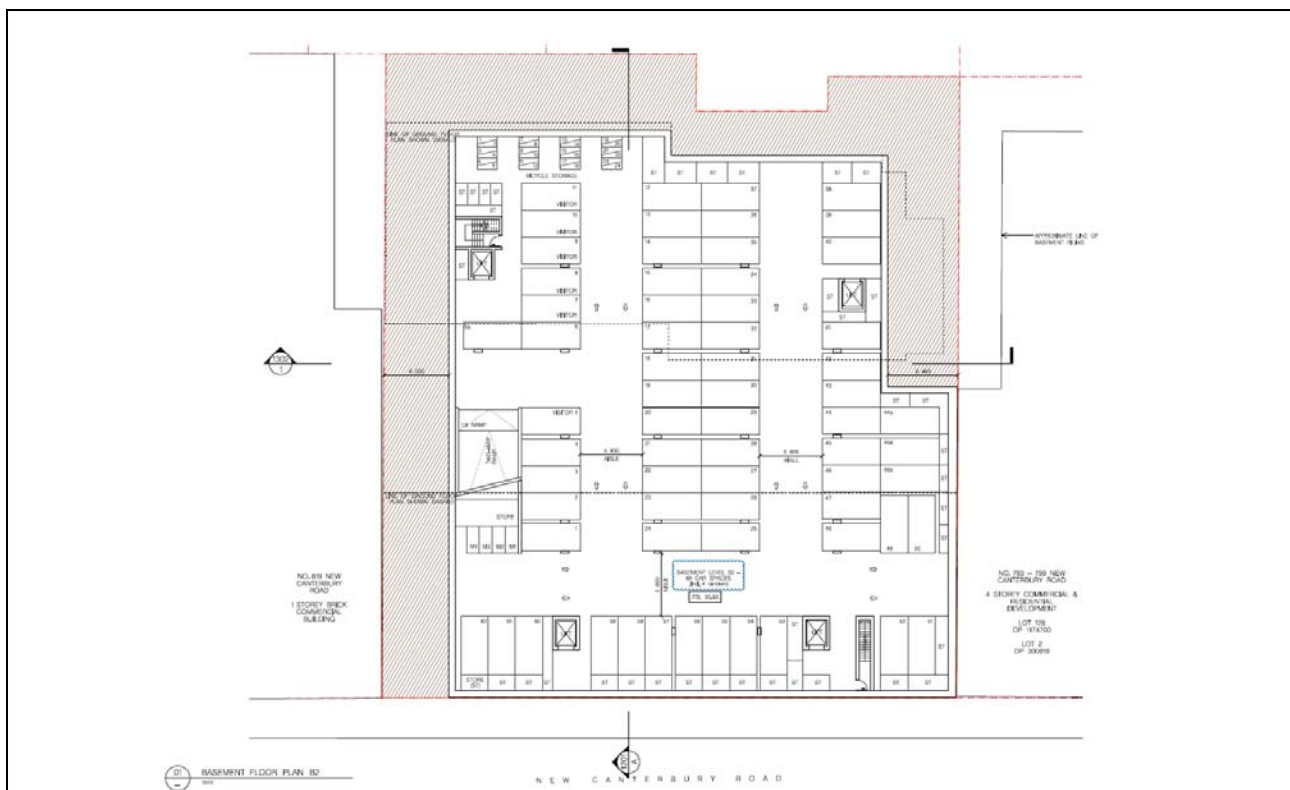


Image 14: Basement Floor Plan (B2)

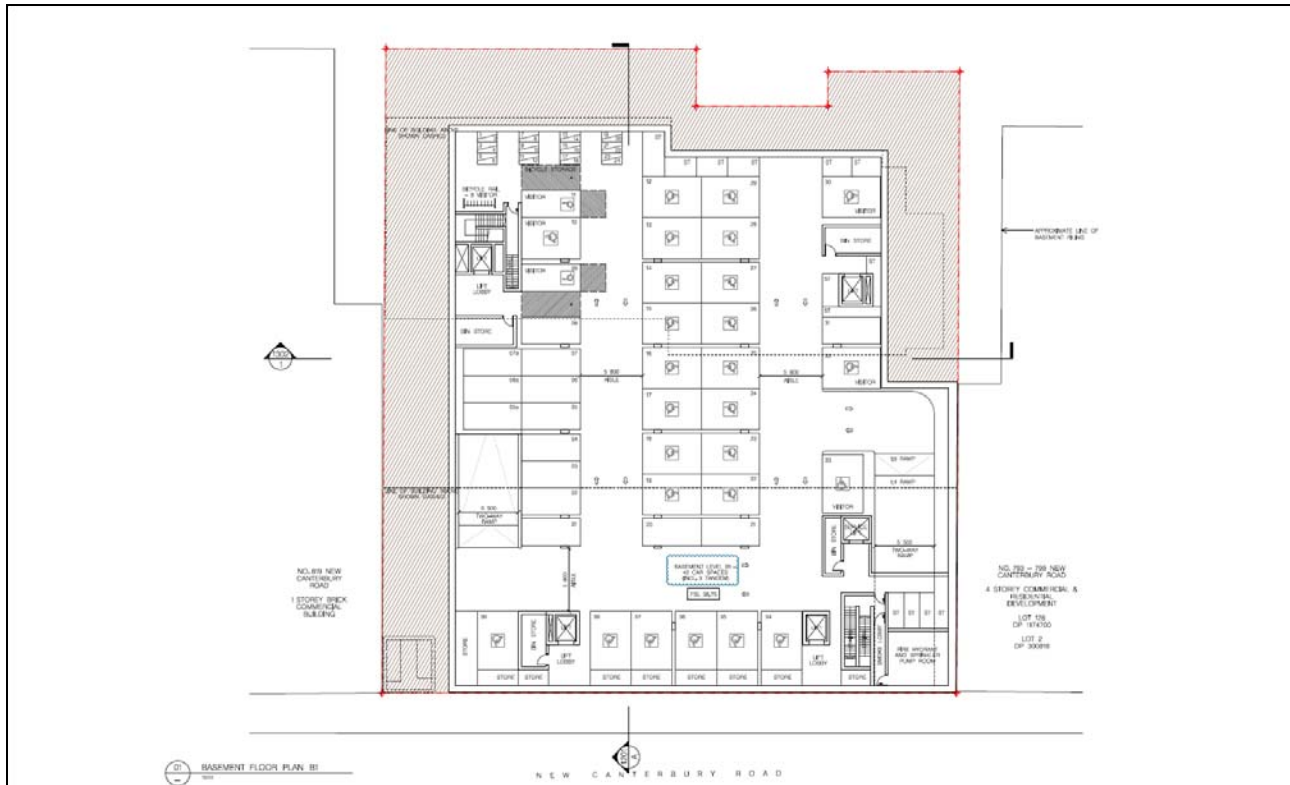


Image 15: Basement Floor Plan (B1)

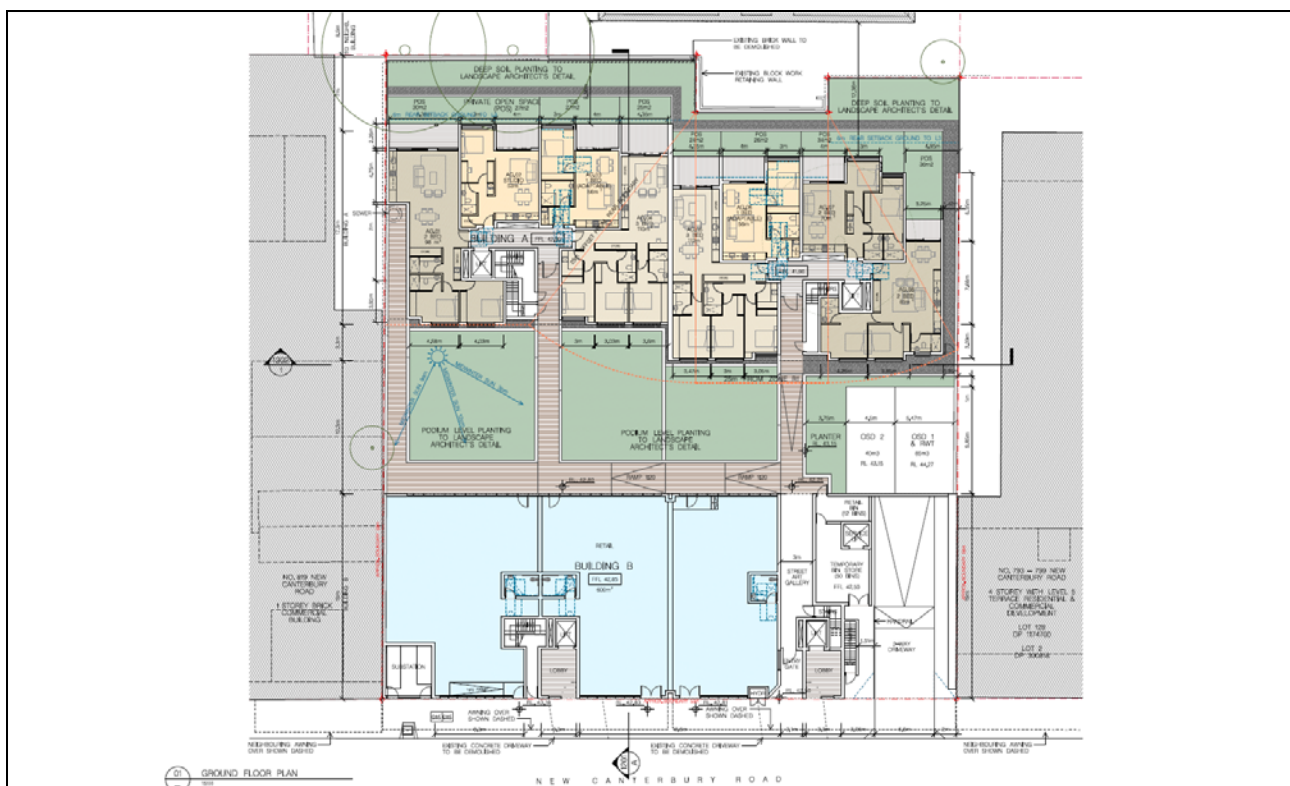


Image 16: Ground Floor Plan



Image 17: First Floor Plan



Image 18: Level 2 Floor Plan



Image 19: Level 3 Floor Plan



Image 20: Level 4 Floor Plan

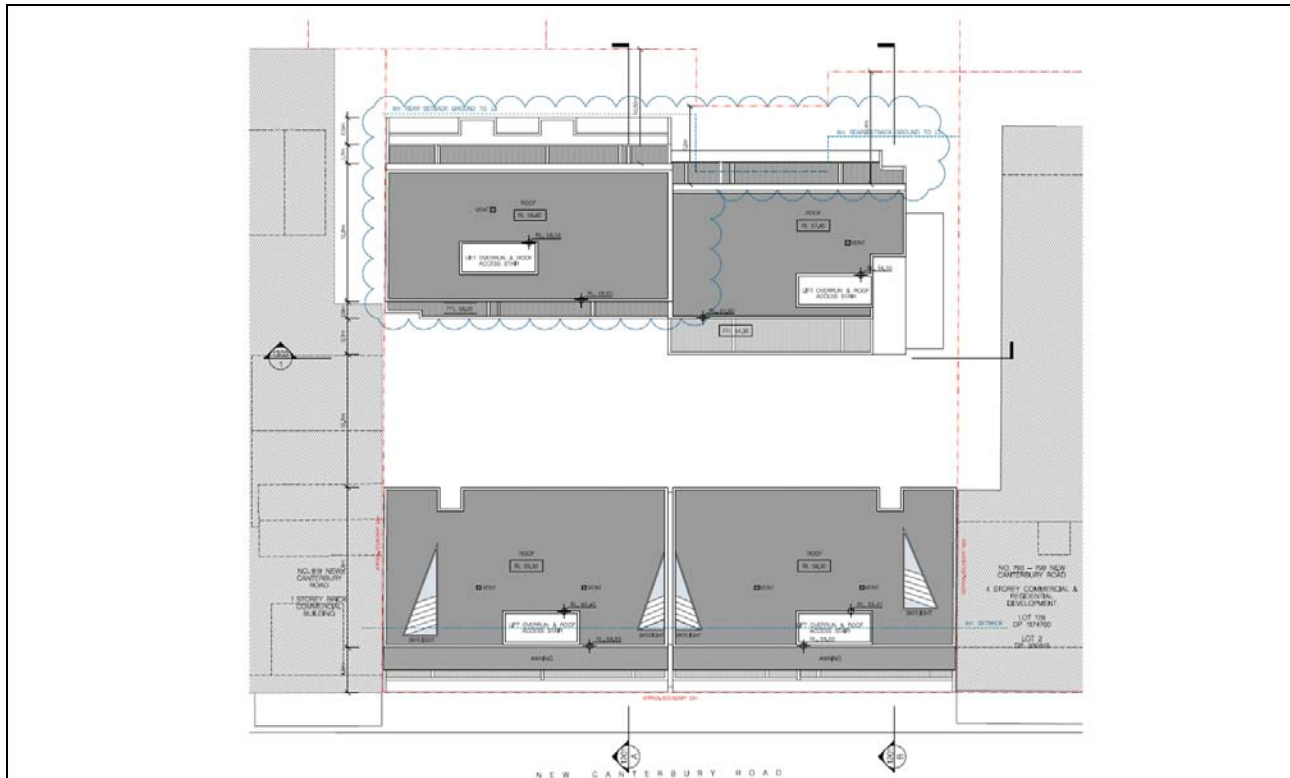


Image 21: Roof Plan

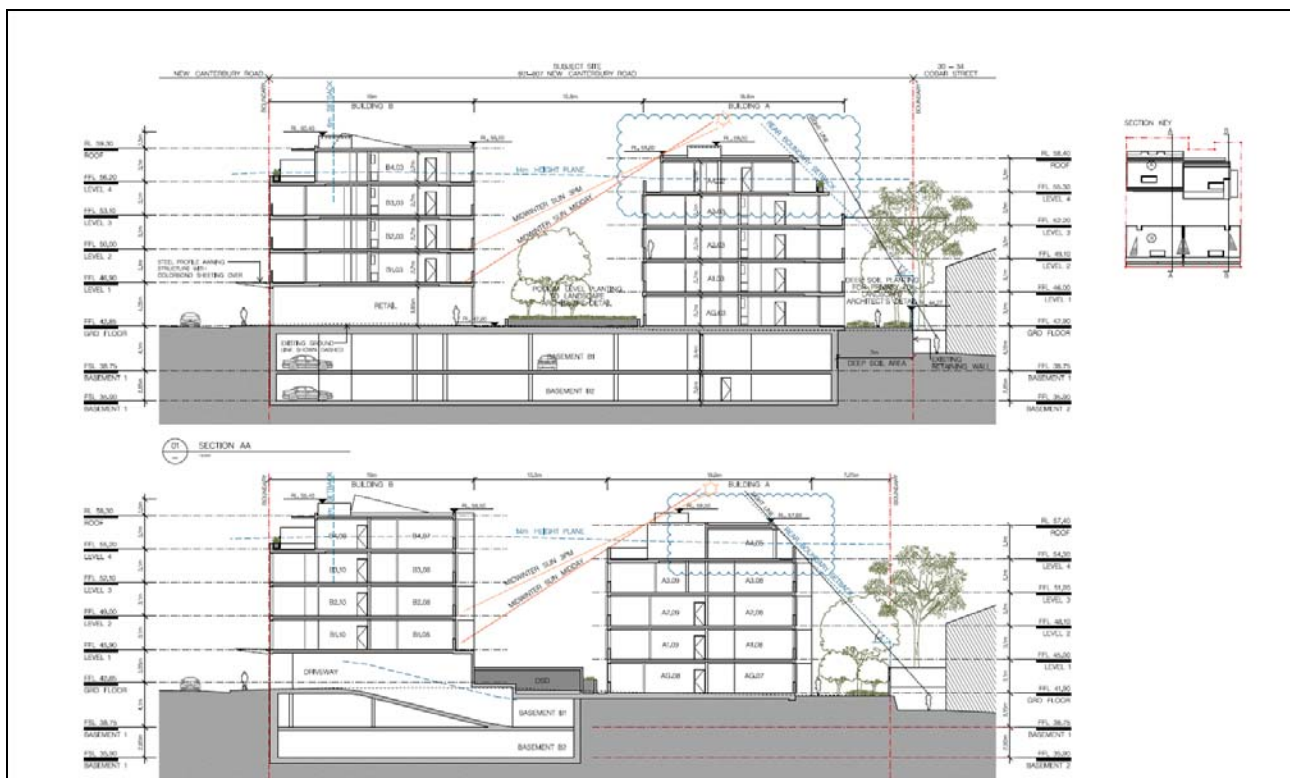


Image 22: Section A & B

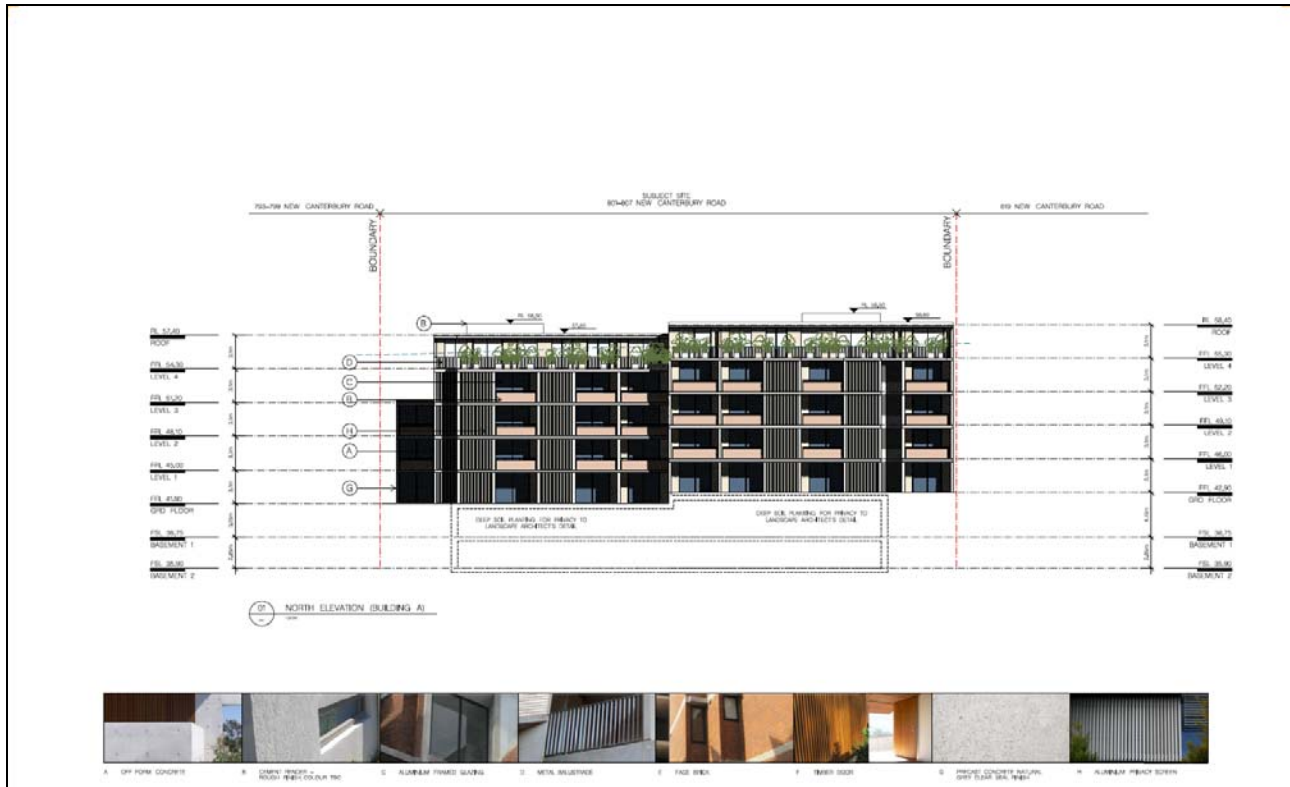


Image 23: North Elevation (Building A)

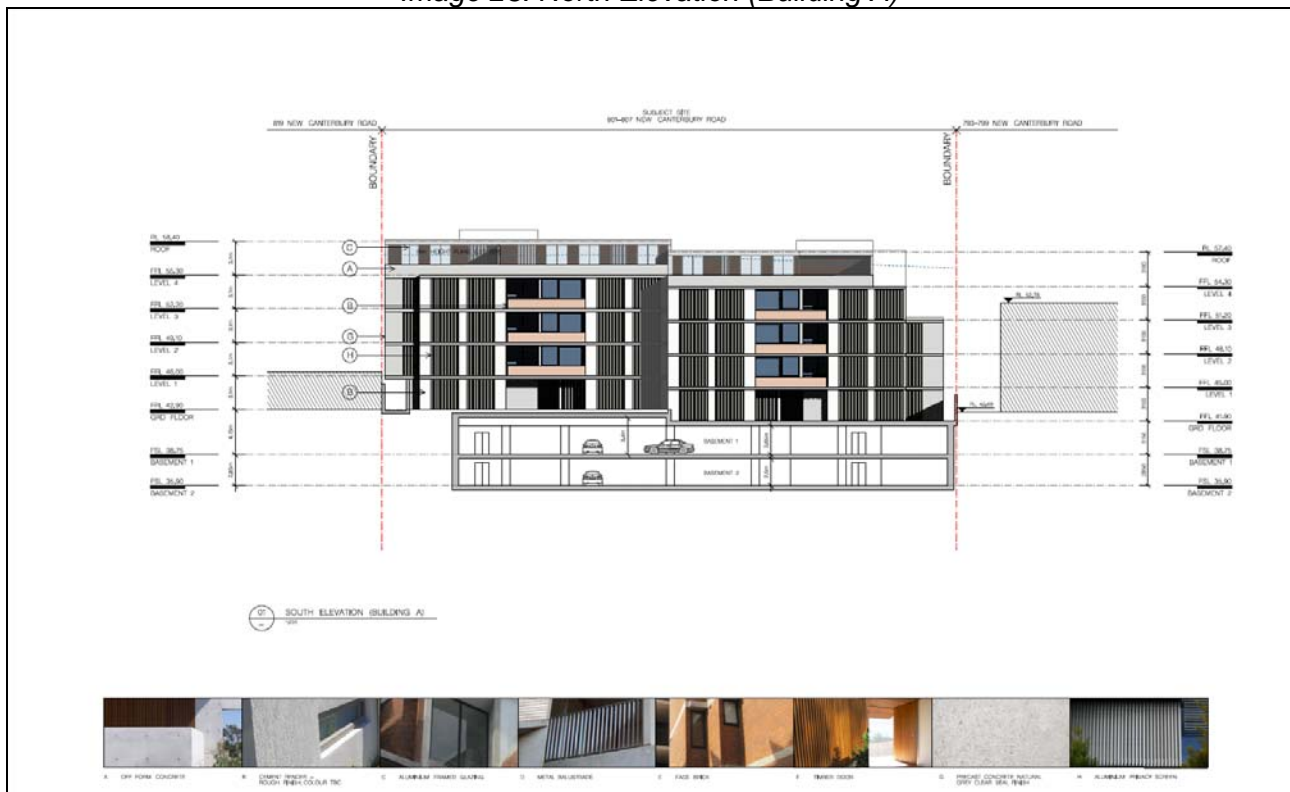


Image 24: South Elevation (Building A)

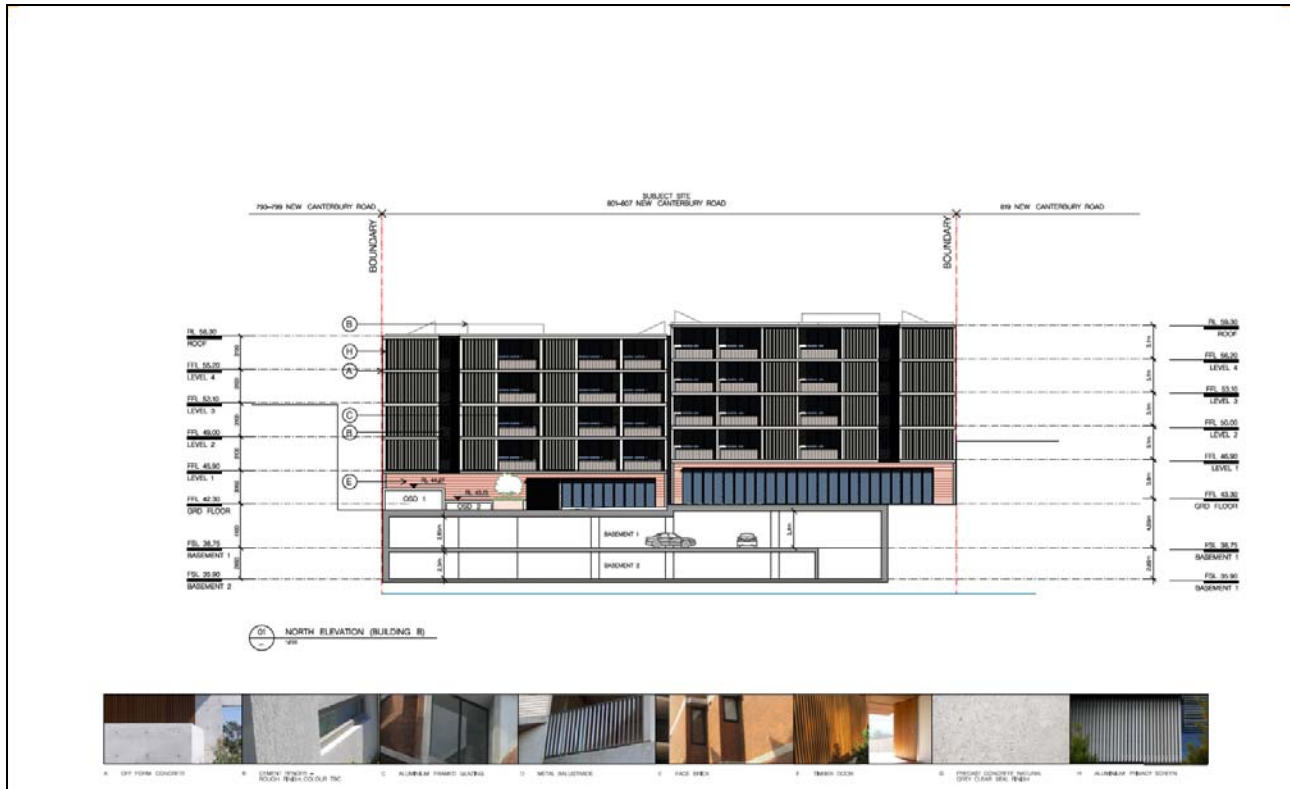


Image 25: North Elevation (Building B)



Image 26: South Elevation Building B (New Canterbury Road Frontage)

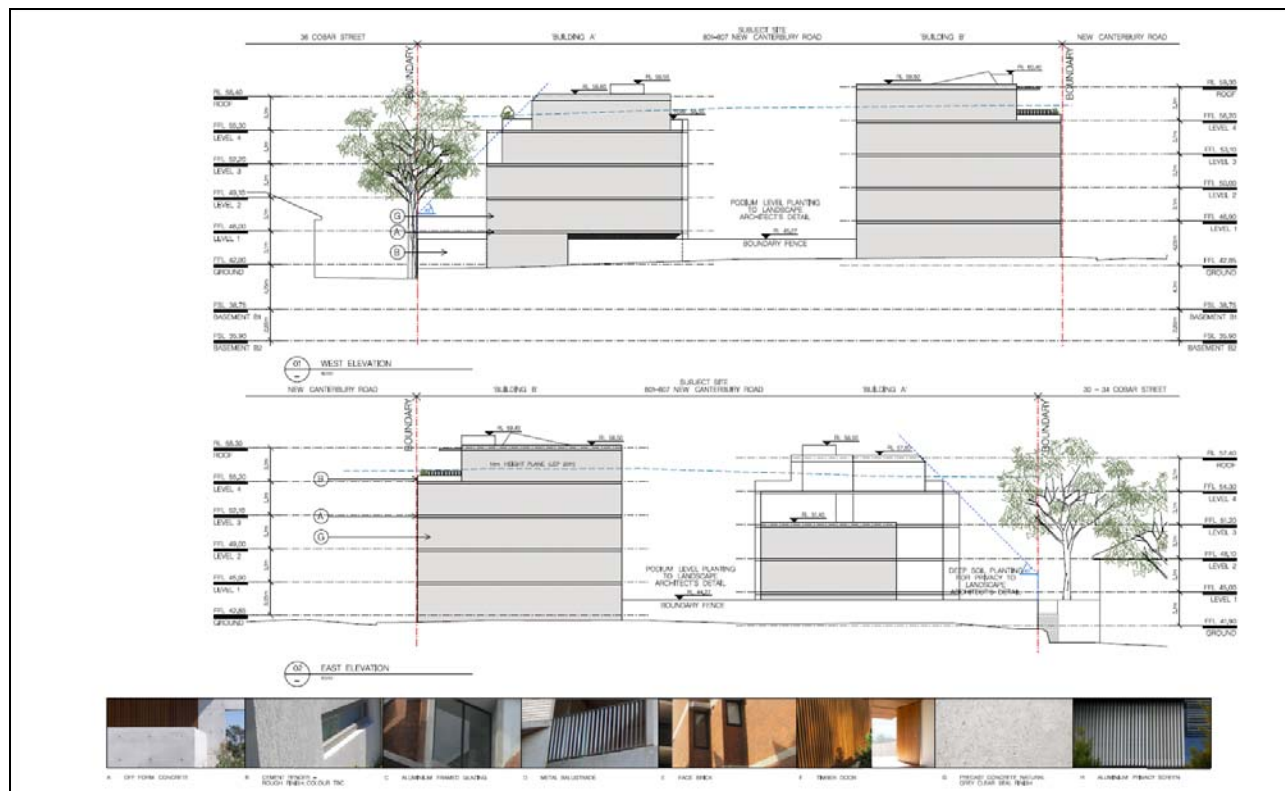


Image 27: East Elevation & West Elevation

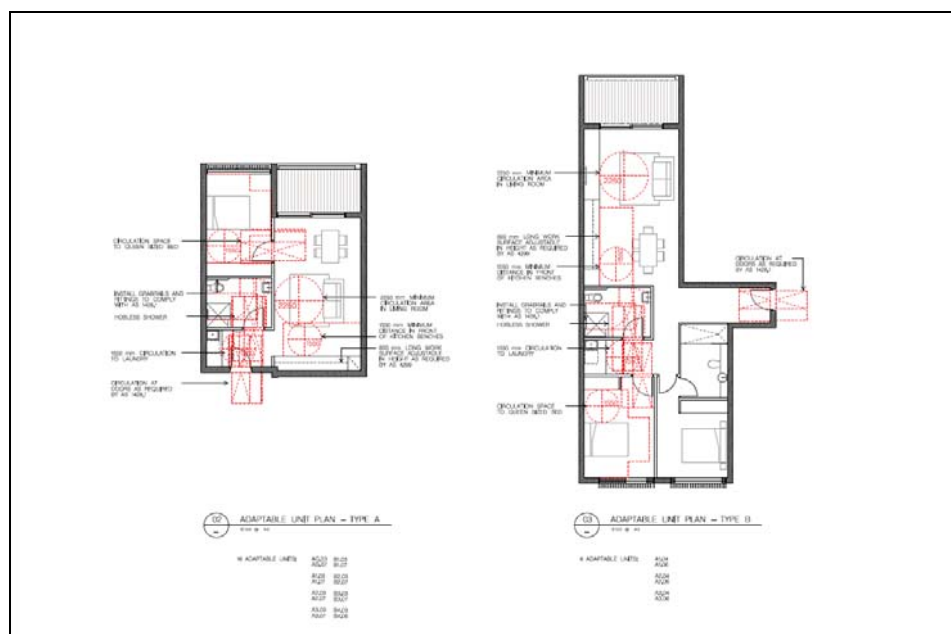


Image 28: Adaptable Unit Plans

4. 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. MDCP 2011 provides controls and guidelines for remediation works. 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.

The applicant submitted a Detailed Site Investigation (DSI) and a Geotechnical Report for the development, prepared by Douglas Partners in December 2014.

Council's Environmental Services Section has reviewed the contamination documents and is generally satisfied that the site can be made suitable for residential use. To ensure that the additional works are undertaken, it is recommended that deferred commencement conditions are included in the recommendation to ensure that a Remediation Action Plan (RAP) is developed, which is consistent with the recommendations of Douglas Partners report.

5. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) prescribes 10 design quality principles to guide architects designing residential flat buildings and to assist councils in assessing such developments. The 10 principles relate to key design issues including the context, scale, built form and building density, resource, energy and water efficiency, landscape design, amenity, safety/security, social impacts and aesthetics.

The provisions of SEPP 65 apply to the development. As required by the SEPP, a Design Verification Statement was submitted with the application indicating that a registered Architect directed the design of the proposed residential flat development and that the proposal generally satisfies the design quality principles set out in Part 2 of SEPP 65.

The Design Verification Statement also provided an assessment of the proposal with respect to the 10 design principles contained in SEPP 65. The development is generally considered acceptable having regard to the ten design quality principles.

It is noted that SEPP 65 (Amendment 3) has been gazetted but does not apply to this development application due to saving provisions. This has been discussed in more detail in Point 6 of this report.

Residential Flat Design Code

(i) Building Separation

Under the RFDC, the following minimum building separation requirements are recommended for residential flat developments with 5 storeys:

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	18 metres
Habitable Rooms/Balconies to Non-Habitable Rooms	13 metres
Non-Habitable Rooms to Non-Habitable Rooms	9 metres

Both Building A and Building B are proposed to be 5 storey buildings in height. The internal courtyard maintains a minimum setback between Building A and Building B of 12.3 metres. This separation is extended to 16 metres on the upper most floor. While not complying with the numerical separation requirements under the RFDC, the development is considered to provide adequate separation between the buildings for privacy and solar access. The development is oriented north-south with the northern face of Building B receiving adequate solar access as required under SEPP 65. This is confirmed by the submitted solar analysis which is able to demonstrate that the apartments on the lowest level of Building B (Level 1) receive at least 2 hours of solar access during the winter solstice. The matter of solar access and privacy are discussed further in Section 12 of this report.

Building separation from the existing residential flat building at 30-34 Cobar Street is also required to be 18 metres under the RFDC. The amended design proposes a separation distance of between 9.56 metres (western end) and 12.36 metres (eastern end) between the Cobar Street residential

flat buildings and the proposed development. Despite not strictly complying with the RFDC separation requirements, the building separation of this development is greater than 50% (and in some places up to 66%) of the required separation. Any requirement for a greater building separation on the subject site is considered to be onerous, given the existing context and its existing separation non-compliances.

The proposed building separation is considered to provide sufficient visual and acoustic privacy with the applicant proposing full length privacy screening and deep soil planting for privacy on the rear interface of the site. Given that the existing adjoining development to the north was approved prior to the existence of SEPP 65 and that it does not comply with the current controls, the separation is considered to be acceptable in this instance. The proposed separation remains sufficient to provide acceptable visual and acoustic privacy for existing and new residents, with sufficient provision of open space and deep soil zones for stormwater management and tree planting.

The zero side separation of Building B from 793-799 New Canterbury Road is considered to be appropriate given the existing blank side wall and the urban context of the site.

Overall, given that the development is considered to be consistent with the objectives of the RFDC building separation controls the proposal is acceptable in this regard.

(ii) Apartment Layouts and Minimum Areas

Under the RFDC, the following minimum apartment sizes are recommended for dwellings within a residential flat development:

Apartment Type	Minimum Internal Area	Minimum External Area
Studio	38.5sqm	6sqm
One Bedroom Cross Through	50sqm	8sqm
One Bedroom Single Aspect	63.4sqm	10sqm
Two Bedroom Corner	80sqm	11sqm
Two Bedroom Cross Through	89sqm	21sqm
Two Bedroom Cross-Over	90sqm	16sqm
Three Bedroom	124sqm	24sqm

The development contains 80 dwellings, being a mixture of studios, 1, 2 and 3 bedroom dwellings with varying sizes for each dwelling type.

Approximately 60% of the proposed apartments do not meet the minimum internal area required under the RFDC. All the single aspect 1 and 2 bedroom apartments are undersized by approximately 7sqm for a 1 bedroom, 2-10 sqm for a 2 bedroom and up to 12sqm for a 3 bedroom apartment. Despite the dwellings that have internal areas less than the areas prescribed above, all dwellings have an internal area greater than the rule of thumb (i.e. minimum) dwelling size prescribed within the RFDC. It is noted that the rule of thumb in the RFDC suggests that a reduced dwelling size could contribute to housing affordability in the area.

Despite a number of apartments not meeting the minimum internal area, it is considered that the proposed dwellings would have good amenity in terms suitable access to light and ventilation. The internal layouts of the proposed dwellings are functional and have been well contemplated and the apartments would be able to be adequately furnished. While some units are compact, the design of the units is considered to be well thought out without compromising the overall design of the development.

Having regard to the above figures, the degree of non-compliance is considered minimal, particularly as the implementation of the changes relating to dwelling size under SEPP 65 (Amendment 3) and the Apartment Design Guide came into effect on 17 July 2015 and the

proposal would comply with those minimum apartment size standards. In view of the circumstances the proposed development's non-compliance with the suggested minimum apartment size for dwellings under the RFDC is considered acceptable.

(iii) Ceiling Heights

Under the RFDC, the suggested floor to ceiling heights for residential flat buildings are 2.7 metres for the ground and first floors containing residential habitable rooms, 2.4 metres for the remaining residential levels above.

The proposal includes a 3.65 metre floor to ceiling height for the ground floor and minimum 2.7 metre floor to ceiling heights for the levels above which complies with the minimum requirements.

(iv) Ground Floor Apartments

For ground floor apartments, the RFDC suggests that front gardens and terraces should be used to contribute to the spatial and visual structure of the street while maintaining adequate privacy for apartment occupants which can be achieved by animating the street edge, for example, by promoting individual entries for ground floor apartments.

The development proposes ground floor apartments for Building A. These apartments have been designed to be accessed from the communal lobbies with access to private terrace areas with landscaping towards the northern edge of the site. This orientation is considered to provide sufficient privacy for users and considered to be an appropriate design outcome.

6. State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (Amendment 3)

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65 Amendment 3) commenced on 17 July 2015 and only applies to applications that have been submitted after the 19 June 2015. The current application was lodged on 3 March 2015 and as such does not apply in this instance.

Despite this, SEPP 65 (Amendment 3) prescribes 9 design quality principles to guide the design residential flat buildings and to assist in assessing such developments. The draft principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and architectural expression. The proposal is considered to be consistent with the new design quality principles set out in the SEPP 65 (Amendment 3).

The Apartment Design Guide has also been considered as part of this assessment of the above items and having regard to this policy, no issues are raised that would warrant the refusal of the applications. It should be noted that the new SEPP 65

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

A BASIX Certificate was submitted with the application indicating the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

8. State Environmental Planning Policy (Infrastructure) 2007

Roads and Traffic (Division 17)

Development with frontage to classified road (Clause 101)

The site has a frontage to New Canterbury Road, a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The application was referred to Roads and Maritime Services (RMS) for comment. RMS raised no objections with the application with regard to ingress and egress to the site which remains adequate to support the intended vehicle movements by road. The application is considered to be acceptable with regard to Clause 101 of the SEPP Infrastructure. In addition, the application was referred to Council's Pedestrian, Cyclist and Traffic Calming Committee which raised no concerns with the proposal.

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

The site is located in a road corridor. Clause 102 of the SEPP Infrastructure relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 40,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

New Canterbury Road has an annual average daily traffic volume of more than 40,000 vehicles. The residential component of the proposed development is considered to be a type of development that is sensitive to traffic noise or vehicle emissions and as such is required to be 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 under the SEPP. The applicant submitted a Noise Assessment Report with the application that demonstrates that the development will comply with the LAeq levels stipulated in Clause 102 of the SEPP. Conditions are included in the recommendation to ensure the requirements recommended within the Noise Assessment Report are incorporated into the development.

As such it is considered the proposed development satisfies the provisions of Clause 101(2) of the Infrastructure SEPP.

Traffic-generating development (Clause 104)

In accordance with Column 3 in Schedule 3 of Clause 104 SEPP (Infrastructure), 'residential flat buildings' with 75 or more dwellings with access to classified road are classified as traffic generating development. Accordingly, the application was referred to RMS for comment.

In a letter dated 4 June 2015, the RMS raised no objection to the development as the traffic generated by the proposed works would have minimal impact on the classified road network under Clause 104 of SEPP Infrastructure.

9. State Environmental Planning Policy (State and Regional Development) 2011

The development has a capital investment value of \$24,564,732.

Clause 3 in Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979) provides that general development with a capital investment value of more than \$20 million must

be determined by the relevant Joint Regional Planning Panel, pursuant to the provisions of Section 23G (4) and Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011.

10. Marrickville Local Environmental Plan 2011

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

The property is zoned B2 Local Centre under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011). Shop top housing is permissible with Council's consent under the zoning provisions applying to the land.

Under MLEP 2011 shop top housing is defined as follows:

“shop top housing means one or more dwellings located above ground floor retail premises or business premises.”

Building B within the development constitutes shop top housing development and is permissible with Council's consent under the zoning provisions applying to the land.

Building A is classified as a residential flat building which is prohibited in the zone. However, the site adjoins the R1 General Residential Zone to the north of the site, within which residential flat buildings are permissible. As noted below, Clause 5.3 allows flexibility in the zoning provisions applying to the land and the proposed use of Building A is generally supported.

The proposed mixed use development is consistent with the identified objectives of the B2 Local Centre zone providing for a range of unit sizes and layouts to meet the needs of future community while providing a well located and planned retail space that will meet needs of residents and commuters.

(ii) Subdivision (Clause 2.6)

Clause 2.6 of MLEP 2011 states that land to which the Plan applies may be subdivided, but only with development consent. The development includes subdivision of the land. The issue of subdivision is discussed in Section 12 of this report.

(iii) 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 demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

(iv) Height (Clause 4.3)

A maximum building height of 14 metres applies to the land under MLEP 2011. The development has a maximum building height of 17.7 metres (26.4% non-compliance) attributable to the skylight of Building B and 17 metres (21.4% non-compliance) attributable to the lift overrun of Building A.

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. That request is discussed below.

(v) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1.75:1 applies to the development under MLEP 2011. The development proposes a total gross floor area (GFA) of 7,214sqm which equates to a FSR of

2.35:1 (34% non-compliance) on the 3,070m² site which does not comply with the development standard. The excess FSR is 1,841sqm.

A written request, in relation to the development's non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. That request is discussed below.

(vi) Exceptions to Development Standards (Clause 4.6)

Maximum Building Height

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

- The additional building height above Council's controls has been positioned on the site in a manner that is unlikely to result in significant adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing and privacy impacts.
- The top level of both proposed buildings is recessed from the front and rear boundaries and removing the non-compliance would not significantly alter the perceived scale of the proposed development when viewed from the public domain or surrounding development;
- There is minimal difference in the impacts from a compliant development including the arrangement of the 5th storey of Building A and Building B. The arrangement and orientation of openings and balconies and the positioning of proposed screening devices is such that the additional height will not generate any significant privacy impacts. Due to the setback arrangements, there is a nominal difference in visual impacts between the proposed buildings and a complying development;
- Shadow from the development does not affect the existing residential buildings in Cobar Street and will not significantly affect any existing or future residential development on the southern side of New Canterbury Road. The height of Building A is arranged on the site in a manner that minimises the overshadowing of living room windows to adjacent residential dwellings. In particular the amended DA has been modelled to include side and rear setbacks which result in solar access outcomes towards the eastern adjacent property that are consistent with a compliant development (in terms of height and setback controls); Submitted shadow analysis demonstrates that a reduction in height of the remaining proportion of proposed Building A to a compliant level is unlikely to reduce the number of living room windows in the western wall of the building at 793-799 New Canterbury Road that would be affected by shadow in a significant manner;
- The development is a large and prominent site which can deliver excellent northern orientation and amenity, with 90% of apartments orientated in whole or part away from New Canterbury Road towards extensive landscaped gardens to create a vibrant and well designed in fill development proximate to rail, commercial businesses, schools and recreational facilities;
- It is understood that the west Dulwich Hill area did not undergo a detailed urban design, economic and strategic analysis when the provisions of the new LEP were formulated. Instead a transferring of the previous controls, with some relatively minor amendments, was undertaken in formulating the MLEP 2011 with respect to the west Dulwich Hill area;
- It is considered that there are strong planning grounds to justify contravening the current height standard in this instance. Considerable urban design analysis has been undertaken in the design development stage of the proposed mixed use development. The plans, as amended, represent the end of an exhaustive design analysis process which has accounted for the existing site constraints (physical and economical), the existing and the evolving character of the locality and the transition of land uses and built forms from the north of the site to the south of the site.
- The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss. The development will result in significant public benefit through:

- the positive urban design outcomes and revitalisation of a significant site at the western end of New Canterbury Road,
- the increase in accessible, flexible and well-appointed retail floor space;
- the provision of 80 residential units which achieve a high amenity, considerably above the minimum standards called for in the RFDC and Marrickville DCP;
- the provision of a mixed use building of high architectural merit which achieves design excellence and will deliver a level of aesthetic interest to the western end of New Canterbury Road which is currently lacking;
- Since the adoption of MLEP 2011, public transport access for the locality has improved through the construction and operation of the light rail network which is within walking distance of the site;
- Approvals have been granted for taller buildings to be constructed on the southern side of New Canterbury Road by Canterbury City Council and several mixed use developments have been approved for the northern side of New Canterbury Road.

The variation has been considered against the matters set out in the “five part test” established by the Land and Environment Court and Clause 4.6 (3) of MLEP 2011 and the applicant’s submission. The justification provided above is well founded and worthy of support. As detailed in this report, it is considered that the proposed development would not result in adverse environmental impacts on the surrounding neighbourhood. A copy of the Clause 4.6 Objection to building height is attached.

In a report to Council on 5 June 2012, Council’s Strategic Planning Section (Planning Services) responded to submissions made by nearby sites (793-799 New Canterbury Road and 843 New Canterbury Road) on Amendment 2 to the MLEP 2011. In responding to the submission the following comments were made by Council Officers:

- The submission did not seek to change the land use zoning, however, it did seek to increase the FSR and height limits of the commercial properties along New Canterbury Road;
- “The proposal [to increase height and FSR] has merit and is supported in general terms, particularly as lots along this section of New Canterbury Road are deep are located on the northern side of the road, so increased heights can be managed so as not to adversely affect neighbouring or nearby properties through overlooking or overshadowing.”
- These comments were qualified by the need for Council to undertake a review of the Marrickville Urban Strategy (MUS), which to date, has not been progressed by Council.

Compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances given that:

- Council’s strategic planning section consider that an increased height and FSR above the current planning controls has merit (a detailed DA is considered to be an appropriate level of design investigation in lieu of any updates to the MUS);
- The site is a deep lot with a long frontage to New Canterbury Road;
- The site is within walking distance of Dulwich Grove Light Rail Station, a new piece of public transport infrastructure that was not taken into consideration when formulating the MLEP 2011;
- A taller context is emerging with Canterbury City Council approvals for taller buildings on the southern side of New Canterbury Road.

There is sufficient environmental planning grounds to justify contravening the development standard given that:

- The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss.
- The site design has 85% (68 out of 80) of dwellings that receive a minimum of 2 hours of solar access to the internal and external living areas between 9.00am and 3.00pm on June 21st

- Positive contribution to the urban design and streetscape activation of New Canterbury Road through the revitalisation of a previously vacant lot of land with a mixed use development that has architectural merit.

The justification provided above is well founded and worthy of support. The majority of the additional height fits within the building envelope envisaged by Council's controls except with regard to the upper level residential encroachment. The highest parts of the buildings are relatively small objects being lift overruns and skylights. While the development will alter the character of the area, the height and scale of the buildings proposed are consistent with the desired future character contemplated by Council's controls as well as the changing character on the opposite side of New Canterbury Road. The development has been appropriately designed to minimise impacts and is softened by deep soil landscaped areas.

It is considered that the applicant's written submission has satisfactorily addressed the relevant matters under Clause 4.6 of MLEP 2011 and as such the proposal's non-compliance with the height development standard is considered acceptable. 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 development.

Floor Space Ratio

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

- The FSR is considered appropriate to the context and circumstances of the site, and does not result in a scale of development that is out of character with the surrounding and emerging character of the locality.
- Contextually, the proposal will provide a development of a scale, form and density that appropriately transitions from higher, 'denser' (in a GFA and FSR sense) development to the south and the 14 metres high scale residential development to the north. On an urban design basis, the outcome will be entirely appropriate to the locality, particularly given the planning controls on the southern side of New Canterbury Road.
- The proposal does not represent an overdevelopment of the site and the height and proposed intensity (density) is consistent with the strategic vision for the locality and its evolving urban context.
- Change within the locality is likely to be invigorated and accelerated by the recent increase in available and accessible public transport (namely the development is within walking distance of Dulwich Grove Station, part of the light rail line), which was not necessarily implicit at the time that the MLEP 2011 built form controls were adopted. Shadow from the development does not affect the existing residential buildings in Cobar Street and will not significantly affect any existing or future residential development on the southern side of New Canterbury Road. The height of Building A is arranged on the site in a manner that minimises the overshadowing of living room windows to adjacent residential dwellings. In particular the amended DA has been modelled to include side and rear setbacks which result in solar access outcomes towards the eastern adjacent property that are consistent with a compliant development (in terms of height and setback controls); Submitted shadow analysis demonstrates that a reduction in height of the remaining proportion of proposed Building A to a compliant level is unlikely to reduce the number of living room windows in the western wall of the building at 793-799 New Canterbury Road that would be affected by shadow in a significant manner;
- The development is a large and prominent site which can deliver excellent northern orientation and amenity, with 90% of apartments orientated in whole or part away from New Canterbury Road towards extensive landscaped gardens to create a vibrant and well designed in fill development proximate to rail, commercial businesses, schools and recreational facilities;

- It is considered that there are strong planning grounds to justify contravening the current FSR standard in this instance. Considerable urban design analysis has been undertaken in the design development stage of the proposed mixed use development. The plans, as amended, represent the end of an exhaustive design analysis process which has accounted for the existing site constraints (physical and economical), the existing and the evolving character of the locality and the transition of land uses and built forms from the north of the site to the south of the site.
- It is understood that the west Dulwich Hill area did not undergo a detailed urban design, economic and strategic analysis when the provisions of the new LEP were formulated. Instead a transferring of the previous controls, with some relatively minor amendments, was undertaken in formulating the MLEP 2011 with respect to the west Dulwich Hill area;
- The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss. The development will result in significant public benefit through:
 - i. the positive urban design outcomes and revitalisation of a significant site at the western end of New Canterbury Road,
 - ii. the increase in accessible, flexible and well-appointed retail floor space;
 - iii. the provision of 80 residential units which achieve a high amenity, considerably above the minimum standards called for in the RFDC and Marrickville DCP;
 - iv. the provision of a mixed use building of high architectural merit which achieves design excellence and will deliver a level of aesthetic interest to the western end of New Canterbury Road which is currently lacking;
- Since the adoption of MLEP 2011, public transport access for the locality has improved through the construction and operation of the light rail network which is within walking distance of the site;
- Approvals have been granted for taller buildings to be constructed on the southern side of New Canterbury Road by Canterbury City Council and several mixed use developments have been approved for the northern side of New Canterbury Road.

A copy of the Clause 4.6 Objection to FSR is attached. The variation has been considered against the matters set out in the “five part test” established by the Land and Environment Court and Clause 4.6 (3) of MLEP 2011 and the applicant’s submission. The justification provided above is well founded and worthy of support. As detailed in this report, it is considered that the proposed development would not result in adverse environmental impacts on the surrounding neighbourhood.

Compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances given that:

- Council’s strategic planning section consider that an increased height and FSR above the current planning controls has merit (as discussed earlier in the maximum building height section);
- The site is within walking distance of Dulwich Grove Light Rail Station, a new piece of public transport infrastructure that was not taken into consideration when formulating the MLEP 2011;
- Approvals have been granted for taller buildings to be constructed on the southern side of New Canterbury Road by Canterbury City Council.

There is sufficient environmental planning grounds to justify contravening the development standard given that:

- The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss.
- The site design has 85% (68 out of 80) of dwellings that receive a minimum of 2 hours of solar access to the internal and external living areas between 9.00am and 3.00pm on June 21st

- Positive contribution to the urban design and streetscape activation of New Canterbury Road through the revitalisation of a previously vacant lot of land with a mixed use development that has architectural merit.

The majority of the additional floor area fits within the building envelope envisaged by Council's controls except with regard to the upper level residential encroachment. The height and scale of the buildings proposed are consistent with the desired future character contemplated by Council's controls as well as the changing character and increased density on the opposite side of the road in the City of Canterbury LGA. The massing has been appropriately designed to minimise impacts and softened by landscaped areas.

It is considered that the applicant's written submission has satisfactorily addressed the relevant matters under Clause 4.6 of MLEP 2011 and as such the proposal's non-compliance with the height development standard is considered acceptable. 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 development.

(vii) Development Near Zone Boundaries (Clause 5.3)

The property is zoned B2 Local Centre under the provisions of the MLEP 2011 and Building A within the development is classified as a residential flat building. Residential flat buildings are not permissible with Council's consent under the zoning provisions applying to the land. However, the site adjoins the R1 General Residential Zone to the north of the site, within which residential flat buildings are permissible.

Clause 5.3 provides a zone of flexibility within 25 metres of the zone. Building A is located at the rear of the site and the ground floor residential components of the development are proposed to be located within 25 of the R1 Residential zone in accordance with Clause 5.3(2).

Clause 5.3 (4) lists matters to be considered by the consent authority. The consent authority must be satisfied that:

- The development is not inconsistent with the objectives for development in both zones; and
- The carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

The applicant relies on the flexibility of Clause 5.3 for the following reasons:

- The allotments facing New Canterbury Road are relatively deep blocks, measuring over 50 metres in depth. The applicant argues that it is economically prohibitive to provide retail uses at the ground floor for the full extent of the site given the lot depth; and
- Smaller retail uses are better suited to activate and revitalise New Canterbury Roads rather than 'large format retail boxes'.
- The site was previously zoned 3(a) General Business under the previous Marrickville Local Environmental Plan 2001. The General Business zone allowed residential uses such as dwellings, multi-unit housing, residential flat buildings, serviced apartments where they were attached to a permissible use such a commercial or business premise;

It is considered that the proposal is consistent with the objectives of the B2 Local Centre zone given that:

- The development proposes a range of commercial and residential uses being 3 retail tenancies on the ground floor and 80 residential units above which will provide local services as well as housing stock to the community;

- The provision of commercial space on the ground floor encourages employment opportunities in accessible locations;
- The development will maximise public transport patronage and encourage walking and cycling by being located within 710 metres from Hurlstone Park Railway Station and 780 metres from Dulwich Grove light railway station;
- The type and scale of the permissible non-residential uses is considered to be appropriate given the site's layout and location;
- Building B proposes 3 ground level tenancies which have been designed to activate New Canterbury Road;
- The proposed parking is generally in accordance with Council's controls. The site is located near rail and bus transport links facilitating public transport use.

It is considered that the proposal is consistent with the objectives of the R1 General Residential zone given that:

- The development responds to housing demand by proposing 80 residential apartments onsite;
- The development provides a variety of housing types ranging from studio to 3 bedroom apartments which are generally in accordance with Council's dwelling mix controls; and
- The provision of commercial space on the ground floor of Building B will still encourage other development for day to day needs of residents.

It is considered that the development has demonstrated that it is able to meet the objectives of both the B2 Local Centre zone and the R1 General Residential zone. The use of Building A as a residential flat building provides a natural transition between the business and residential zones at the rear of the site. The development has demonstrated compatible land use planning and it is considered to be appropriate to utilise the provisions contained within Clause 5.3 of MLEP 2011.

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

Clause 5.9 of MLEP 2011 concerns the protection of trees identified under MDCP 2011. This matter is discussed later in this report under Section 12.

(ix) Heritage Conservation (Clause 5.10)

The site is not listed as a heritage item under MLEP 2011, is not located within the vicinity of a heritage item and is not located within a Heritage Conservation Area under MLEP 2011.

(x) Earthworks (Clause 6.2)

Clause 6.2 requires Council to consider the impact of a proposed development, involving earthworks, to ensure that works do not have a detrimental effect on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The development involves excavation of up to 7 metres to permit the construction of 2 parking levels. A preliminary geotechnical report was submitted in support of the application. The report provides that:

- A surface and subsoil profile of fill, silty clays and sandstone was detected across the site;
- Groundwater seepage was detected at maximum drill depths of 9.1 metres;
- Excavation of fill material, soil and low strength rock may be removed using conventional earthmoving equipment although the low strength rock will probably require the use of ripping equipment or hydraulic rock hammers; and
- Shoring support will be required as vertical excavations in filling and soil and weathered rock are not expected to be stable. Soldier piles with infill reinforced shotcrete panels with temporary ground anchors will probably be required to prevent excessive lateral deformation.

It is considered that subject to detailed geotechnical investigation as recommended in the report to inform design of the proposed sub level portion of the lower ground parking level the proposal is achievable without significant environmental impact.

Conditions are included in the recommendation requiring the person acting on the consent to undertake dilapidation surveys of all dwellings and adjoining the site to ensure that if damage arises as a result of the works, the owners of adjacent properties are suitably protected.

11. Draft Marrickville Local Environmental Plan 2011 (Amendment 2)

Draft Marrickville Local Environmental Plan 2011 (Amendment 2) (the Draft LEP Amendment) was placed on public exhibition commencing on 31 July 2014 and accordingly is a matter for consideration in the assessment of the application under Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

12. Marrickville Development Control Plan 2011

PART 2 - GENERIC PROVISIONS

(i) Urban Design (Part 2.1)

The development is considered acceptable having regard to the relevant aspects of the 12 urban design principles.

(ii) Site and Context Analysis (Part 2.3)

A site and context analysis was submitted with the application and is considered acceptable.

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

Part 2.5 of MDCP 2011 specifies the minimum access requirements including the following accessible facilities in accordance with the relevant Australian Standards:

Residential Component

The development requires the provision of 16 adaptable dwellings in accordance with the requirements of MDCP 2011. The development has provided 21 adaptable dwellings in accordance with Part 2.5 of MDCP 2011. The proposal is considered reasonable having regard to compliance with access requirements for the residential component of the building. The matter of accessible parking is discussed in this section of the report under the heading 'Parking Part 2.10'.

Commercial Component

The development is required to have:

- Appropriate access is provided for all persons through the principal entrance to each premises;
- A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provide which allows a person with a disability to gain access to all areas within the building; and
- Accessible sanitary facilities are provided within each of the commercial tenancies.

The applicant has submitted an access report which demonstrates compliance

Further assessment of the application under the Premises Standards will occur at Construction Certificate stage. Appropriate conditions are included in the recommendation to ensure compliance.

Given the above, the development is reasonable having regard to the access controls contained in MDCP 2011.

(iv) Acoustic and Visual Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains objectives and controls relating to acoustic and visual privacy.

To ensure the development maintains acoustic and visual privacy for the surrounding residential properties and for future occupants of the development, the following measures are proposed:

- Balconies are proposed to be fitted with louvered privacy screens on the northern and southern facades to alleviate impacts upon adjoining properties and within the development and allows sufficient separation between the dwellings to maintain visual privacy for the occupants;
- Terraces facing New Canterbury Road and are not considered to present any visual privacy concerns given that they face the public domain;
- Appropriate noise conditions are included with the recommendation; and
- With regard to acoustic privacy, the development is captured by SEPP Infrastructure as it is located on a classified road and appropriate noise attenuation measures have been incorporated into the development; and
- Rear façade of Building A facing Cobar Street properties has appropriately addressed visual and acoustic impacts on the adjoining residents through the provision of privacy screens and deep soil planting for privacy.

The proposal complies with the visual and acoustic privacy controls under MDCP 2011.

(v) Solar Access and Overshadowing (Part 2.7)

Overshadowing

The shadow diagrams submitted with the application illustrate the extent of overshadowing on adjacent properties.



Image 29: Elevational shadow diagrams for 793-799 New Canterbury Road (Scenarios SA1-SA3)*

**Scenario SA1 – Impact of the existing development on the western wall of 793-799 New Canterbury Road*

Scenario SA2 - Impact of the existing development on the western wall of 793-799 New Canterbury Road including the existing English Oak tree onsite.

Scenario SA3 – Impact of the originally proposed development on the western wall of 793-799 New Canterbury Road.

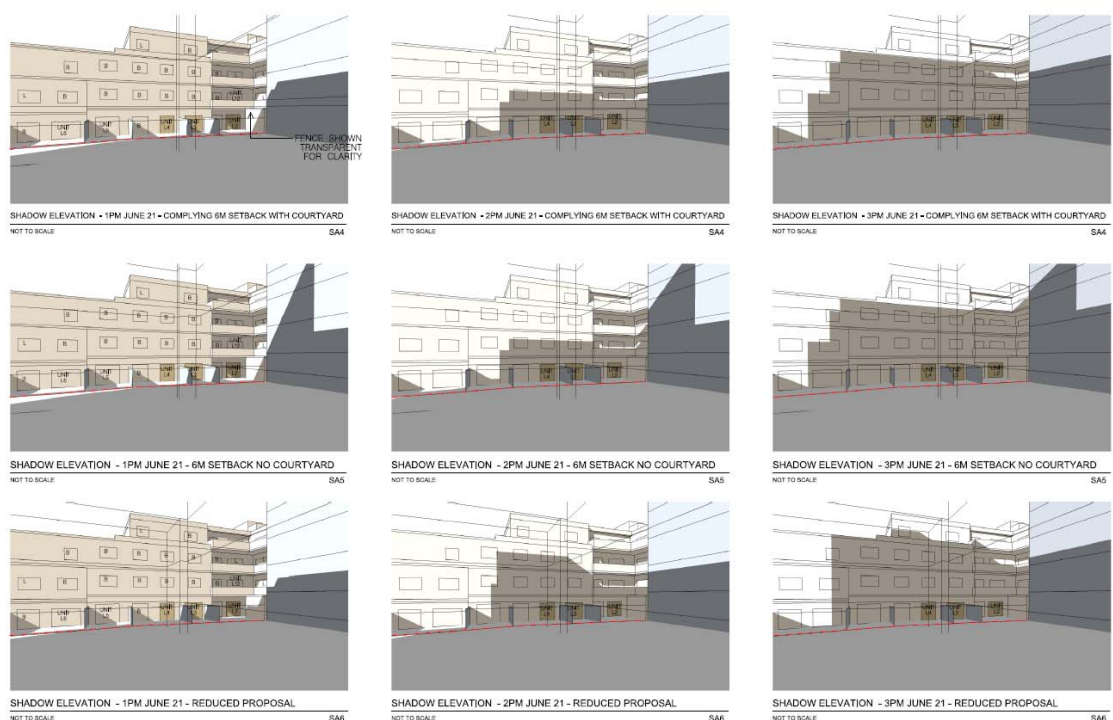


Image 30: Elevational shadow diagrams for 793-799 New Canterbury Road (Scenarios SA4-SA6)**

***Scenario SA4 – Impact of a compliant development on the western wall of 793-799 New Canterbury Road. The compliant would be a 14 metre high building (which is compliant with building height development standard MLEP 2011) and a 6 metre side setback from the eastern boundary (consistent with setback requirements under Part 5.1.3.5 of MDCP 2011) with a central courtyard.*

Scenario SA5 – Is the same as Scenario SA4 but without a central courtyard.

Scenario SA6 – The proposed development as amended, with an increased eastern side setback

The original development proposed a nil setback and substantial bulk on the eastern boundary adjoining a recently constructed 4 storey mixed use development at 793-799 New Canterbury Road (Scenario 3 – SA3 – see Image 29 above). In correspondence with the applicant, Council Officers raised concerns in relation to overshadowing of adjoining properties and requested an amended proposal which stepped down to a lower scale on the eastern boundary. Amended plans were submitted on 7 May 2015 to address Council's concerns in relation to overshadowing and resulted in 2 units being removed from the eastern elevation of Building A on levels 3 and 4 to create a greater eastern side setback.

The amended diagrams and analysis submitted to Council allow a comparison between the original development (Scenario SA3), the amended development (Scenario SA6) and also against compliant forms of development (Scenario SA 4 and Scenario SA5) for the site (see Images 29-30). The shadow analysis indicates that the most significant overshadowing impacts will occur to 793-799 New Canterbury Road, a 5 storey mixed use development to the south of the site.

The applicant has assumed for the purposes of overshadowing that the compliant building used for the modelling (Scenario SA4 – see Image 30 above) The compliant development modelling indicates that the overshadowing of the ground floor apartments on the western side of the adjoining site would be reduced to less than 2 hours, which would result in a non-compliance of Part 2.7 of MDCP 2011. Overshadowing that is greater than Council's controls would also occur to the majority of the western facade of the building. In addition, under a compliant proposal, the ground floor units at 793-799 New Canterbury Road would receive less than 2 hours direct sunlight during the winter solstice.

The overshadowing impacts from the amended design (Scenario SA6 – see Image 30 above) indicate that:

- Compared to a compliant development, identical overshadowing impact (being nil impact) will result at 1.00pm;
- Greater impact to 3 windows on level 2 at 2.00pm;
- A similar impact at 3.00pm would occur; and
- The impact is generally consistent with a compliant built form's overshadowing impact.

While some of the units would not retain 2 hours of solar access to living areas and open space areas, the non-compliance is a result of the significant change in scale that was to be expected from the realisation of the site's redevelopment potential, which is generally consistent with the intent of Council's planning controls.

It is noted that the majority of 793-799 New Canterbury Road has been setback approximately 4.1 metres from the eastern side boundary shared with the subject site, which does not comply with the separation controls related to SEPP 65 or Council's controls given that a 12 metre setback is required. The overshadowing impacts from the proposed development on the adjacent building are greatly increased given the marginal side setback provided compared to a development that has a compliant separation. In addition, the elements of the subject development that breach the 14 metre height control have been setback a greater distance from the side and rear boundaries. This arrangement has allowed solar impact from the additional bulk to be greatly reduced and is considered to be a suitable design outcome.

The shadow diagrams also illustrate that the properties located to the south of the site are not significantly adversely affected by the development given that they are separated sufficiently by New Canterbury Road. Similarly, some overshadowing will occur in the morning to 819 New Canterbury which is located to the west of the site, although it is noted that this is a commercial premise in its entirety.

The proposed eastern side setback and the resulting overshadowing impact are considered to strike a reasonable balance between development of the site and its resulting impacts. Given the above, the overshadowing of the amended proposal appears to be generally consistent with the impacts of a 'compliant' built form and is acceptable in this regard.

Solar Access

The site design has 85% (68 out of 80) of dwellings that receive a minimum of 2 hours of solar access to the internal and external living areas between 9.00am and 3.00pm on June 21st. This is greater than the requirements that 65% of the dwellings receive solar access.

A number of dwellings in Building A with a frontage to the courtyard as well as a number of units facing New Canterbury Road in Building B do not have windows with a direct northerly aspect which does not allow for direct sunlight in accordance with Control C9 within Part 2.7 of MDCP 2011. However, the remaining dwellings have living area windows and private open space areas located within the solar path towards the north. The dwelling design locates the private open space and living areas in the solar path due to the north-south orientation of the site and the development locates living areas directly accessible from private open space areas to ensure compliance with Part 2.18 of MDCP 2011.

Given the above, the proposal is considered to be acceptable with regard to the solar access and overshadowing requirements contained within Part 2.7 of MDCP 2011.

(vi) Social Impact Assessment (Part 2.8)

Table 1 in Part 2.8 of MDCP 2011 details what level of social impact assessment various development types require. The proposal is for a development containing a total of 80 dwellings and as such requires a Social Impact Statement (SIS) to be prepared. However, the applicant has lodged a Social Impact Comment with the application. The level of detail provided with this statement is considered sufficient to undertake an assessment regarding potential social impacts. Therefore the provision of an SIS is not necessary in this instance, as it is considered the additional 30 dwellings which trigger the requirement for an SIS are unlikely to trigger negative social impacts in this instance.

The applicant submitted a Social Impact Comment (SIC) demonstrating that the development achieves desirable outcomes with respect to additional accommodation, safety and security, health/wellbeing and values and expression. The SIC's contention that the proposal will have positive impacts with limited negative outcomes is generally agreed with.

In view of the circumstances no objections are raised to the proposed development on social impact grounds.

(vii) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 contains relating to community safety. The development is considered reasonable having regard to community safety as the proposal provides clear visible residential entrances to the building on the ground floor from New Canterbury Road. Furthermore, the dwellings on the levels above front New Canterbury Road and are provided with living rooms and balconies facing the streets allowing for passive and active surveillance of the street frontages and increasing safety in the surrounding street. In addition, the New Canterbury Road entries are

proposed to have a secure door with video intercom to allow residents to screen people before they enter the site.

The commercial aspect of the development is considered reasonable having regard to community safety for the following reasons:

- The principal entrance to the shop is visible from the street;
- The shopfront has been designed to overlook the street;
- No solid roller shutters are proposed on the shopfront.

Given the above, the development satisfies Part 2.9 of MDCP 2011.

(viii) Parking (Part 2.10)

Car, Bicycle and Motorcycle Parking Spaces

The property is located in Parking Area 2 under Part 2.10 of MDCP 2011. The following table summarises the car, bicycle and motorcycle parking requirements for the development:

Component	Control	Required	Proposed	Complies?
Resident Car Parking				
Resident Car Parking	0.4 car parking space per studio	6 studio units = 2.4 spaces	87 spaces (including 6 tandem spaces and 22 accessible spaces)	No
	0.5 car parking spaces per 1 bedroom unit	24 x 1 bed units = 12 spaces		
	1 car parking space per 2 bedroom unit	43 x 2 bed unit = 43 spaces		
	1.3 car parking spaces per 3 bedroom unit	7 x 3 bed unit = 9.1 spaces		
	1 car parking space per 1 adaptable dwelling	22 accessible spaces		
TOTAL:		89 spaces including 22 accessible		
Visitor Parking				
Visitor Car Parking	0.1 car parking space per unit	80 units = 8 spaces	12 visitor spaces including 6 accessible visitor spaces	No
	1 accessible visitor's car parking space per 4 accessible car parking spaces	4 accessible space		
TOTAL		12 visitor spaces including 4 accessible		
Commercial Parking				
Commercial Car Parking	7 + 1 space per 45sqm GFA over 500sqm for customers and staff	600sqm GFA = 9 spaces	9 spaces	Yes
TOTAL		9 spaces		
GRAND TOTAL		110 spaces	108 spaces	No
Bicycle Parking				
Resident Bicycle Parking	1 bicycle parking space per 2 units	80 units = 40 spaces	48 spaces	No
Visitor Bicycle Parking	1 bicycle parking space per 10 units	80 units = 8 spaces		
Commercial	1 bicycle parking	600sqm GFA		

Component	Control	Required	Proposed	Complies?
Bicycle Parking - Staff	space per 300sqm GFA	= 2 spaces		
TOTAL		50 spaces		
Motorcycle Parking				
Motorcycle Parking	5% of the total car parking requirement	49 car parking spaces required = 2 spaces	4 space	Yes
TOTAL		4 spaces		

Table 1: Car, Bicycle and Motorcycle Parking Control Compliance Table

As detailed above, the development does not comply with Council's numerical parking controls in relation to the residential parking component with the provision of 87 spaces (including 6 tandem spaces and 22 accessible spaces) when the control requires 89 spaces including 22 accessible, which is a deficiency of 2 car spaces. 6 tandem parking spaces are proposed to be allocated between 3 and 2 bedroom apartments. The parking allocation while not strictly conforming to the numerical controls is considered to be acceptable given its location within an accessible area for public transport. It is noted that the objectives in the B2 Local Centre zone are to "constrain parking and reduce car use" and "maximise public transport patronage and encourage walking and cycling". The provision of an amount of parking below the numeric control in Table 1 is consistent with the objectives in the B2 Local Centre zone and therefore the overall intent of the parking control.

The variation in the bicycle parking controls is considered to be reasonable given that the non-compliance is minor (deficient by 2 spaces) and the 48 spaces will provide sufficient storage space for bicycles in the development. The development proposes 4 motorcycle parking spaces which complies with Part 2.10 of MDCP 2011.

Conditions have been included in the recommendation to confirm the number of spaces for each vehicle type.

Vehicle Service and Delivery Area

One vehicle service space is required to be provided for developments of 50 apartments or higher.

No service delivery space has been provided in accordance with Part 2.10.14 of MDCP 2011. This is considered to be acceptable given the constraints of the site and the fact that the New Canterbury Road frontage is available for loading and unloading directly outside the development.

(ix) Energy Efficiency (Part 2.16)

Part 2.16 of MDCP 2011 contains the objectives and controls relating to energy efficiency.

As stated earlier in this report, a BASIX Certificate was submitted for the development that indicates that the proposed new dwellings would comply with the minimum water, thermal comfort and energy efficient targets of the BASIX scheme.

Council's standard conditions are included in the recommendation relating to the provision of energy and water efficient fixtures and fittings for the commercial component of the development.

(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 shop top developments.

In relation to water conservation requirements the residential components of such developments are required to demonstrate compliance with State Environmental Planning Policy – Building

Sustainability Index (BASIX). Part 2.17 of MDCP 2011 contains objectives and controls relating to Water Sensitive Urban Design (WSUD) for new residential and commercial developments.

Council's Development Engineer has provided conditions of consent which are included in the recommendation to ensure that the WSUD elements are suitably constructed to Council's design specifications.

(xi) Landscaping and Open Spaces (Part 2.18)

Part 2.18.11.5 of MDCP 2011 prescribes landscaped area, private and common open space controls for residential flat buildings.

Each dwelling in a residential flat building development must have a private open space in the form of a deck or balcony accessible from the principal living area of the dwelling with a minimum area of 8sqm and a minimum width of 2 metres.

All private open spaces areas are at least 8sqm and measure up to 64sqm for a 3 bedroom apartment on the upper floor of Building A. The current design and size of the balconies is considered to be acceptable with regard to Part 2.18 of MDCP 2011.

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

- The existing oak tree on the site is in good condition and has high retention value. However it is within the proposed footprint and cannot be retained with the design as proposed. Adequate and appropriate compensatory planting should be provided to replace the proposed tree removal.
- The landscape plans provide an indicative planting schedule but do not specify species and their locations. The landscape design report states that a *Lophostemon confertus* (brush box) is proposed to compensate for the loss of the oak. The brush box alone is not considered adequate compensation but with the addition of the species listed in the indicative schedule, adequate compensatory tree planting will be achieved.
- Protection of the trees in neighbouring properties affected by the proposed development is specified in the arborist report, and will be included as conditions of consent.

The conditions recommended by Council's Tree Management Officer are accepted and are included in the recommendation.

(xii) Site Facilities and Waste Management (Part 2.21)

2.21.2 *Clothes drying facilities*

The plans submitted with the application indicate the provision of clothes drying facilities which are considered to be satisfactory. Appropriate conditions are included in the recommendation to ensure details if the drying facilities area provided.

2.21.3 *Public utilities*

The design and provision of public utilities will be required to conform with the requirements of the relevant servicing authority in accordance with the conditions included in the recommendation.

2.21.4 *Mail boxes*

Details regarding the location of mail boxes for the development were not submitted with the application. Given the omission of the above details, a condition is included in the recommendation

requiring the submission of such details to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

2.21.5 Building identification numbers

A condition is included in the recommendation requiring appropriate numbering to be placed on the site and the application for street numbering be approved by Council before the issue of an Occupation Certificate.

2.21.7 Recycling and Waste Management Plan

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application and is considered to be adequate.

2.21.11 Residential Waste

A minimum of 27 x 240 litre (or 10 x 660 litre) recycling, 14 x 240 litre (or 5 x 660 litre) general waste bins and 6 x 240 litre green waste bins are required to be provided for the development. Three bin storage areas are proposed within Basement level 1 floor of the development with a capacity to accommodate the required waste facilities for recycling, general waste and green waste under Part 2.21.

An interim waste room is proposed on the ground floor level with direct access to New Canterbury Road. The interim waste room is of a sufficient site to accommodate the required number of bins on collection day and a service lift allows bin transfers between each level. The RWMP submitted with the application indicates that waste collection will occur from New Canterbury Road.

2.21.13 Commercial Waste

A minimum of 6 x 240 litre recycling, and 6 x 240 litre general waste bins are required to be provided for the development. A bin storage area is proposed within the ground floor level of the development with a capacity to accommodate the required waste facilities for recycling and general waste under Part 2.21.

2.21 Power Poles

There are existing overhead power cables along New Canterbury Road frontage of the site. The applicant proposes to relocate these underground between the 2 existing power poles fronting the site. The undergrounding of the power poles is considered to be a significant step towards the planned future character and urban qualities of the New Canterbury Road frontage. The upgrade of the adjacent public domain would be severely limited if electrical wires are retained over-head. A related condition is included in the recommendation.

The street lighting shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS to ensure appropriate lighting is provided to create a safe environment and to protect the amenity of the surrounding neighbourhood from the emission of light.

PART 3 -SUBDIVISION, AMALGAMATION AND MOVEMENT NETWORKS

Part 3.3 of MDCP 2011 contains controls relating to subdivision. The site currently contains 4 allotments and is legally described as:

- Lot 6 in DP 4040;
- Lot B in DP 937092;
- Lot 1 in DP 104521; and
- Lot 4 in DP 1125682.

In order to facilitate the development of the site the consolidation of the 4 separate lots into 1 is required. Part 3 requires amalgamation of properties prior to the issue of a Construction Certificate. A condition has been included in the recommendation to this effect.

PART 5 - COMMERCIAL AND MIXED USE DEVELOPMENT

Part 5 contains controls for commercial and mixed use developments and the relevant matters are considered below.

(i) Massing and Setbacks (Part 5.1.3.3)

(a) Front Massing for Infill Development

Control C7 requires the street front portion of the building mass to have a nil setback to the street up to a height of 12 metres and contain a maximum of 3 storeys. The proposal presents a 13.6 metre form containing 4 storeys fronting New Canterbury Road. Level 4 has been setback approximately 4 metres from the New Canterbury Road frontage.

Building B has a nil front setback which reinforces a continuous street frontage along New Canterbury Road. In addition, it is considered that the building's façade design and materials will contribute positively to the existing streetscape character of the locality. It is noted in the applicant's Clause 4.6 submission it is identified that a significantly higher built form is permitted on the southern side of New Canterbury Road within the Canterbury City Council local government area than what is allowable under Marrickville Council's planning controls. Given the above, the non-compliance with Control C8 is supported given that despite the height and front setback variation.

Control C9 generally restricts side setbacks in the front portion of the building where zero side setbacks are the typical pattern of the streetscape. The development has a zero side setback for Building B which is supported as it is typical of the locality and the B2 Local Business zoning.

(b) Rear massing

The rear massing envelope is a combination of the rear boundary plane and a 45 degree sloping plane from a point 5 metres vertically above the ground level of the property being developed, measured at the rear boundary as described by Control C14 in Part 5.1.3.3.

During the assessment process, Council requested design changes from the applicant to ensure compliance with Control C14. The modified proposal has incorporated the following changes at the rear:

- The northern wall for Level 4 has been setback an additional 1.6 metres from the northern boundary;
- The balustrade for Level 4 has been setback an additional 2.4 metres from the northern boundary;
- The northern edge of the concrete slab forming the roof of Level 3 has been setback an additional 1.4 metres from the northern boundary;
- The northern edge of the roof of level 4 has been setback an additional 3.5 metres following the deletion of the awning to the terraces.

As a result of the amendments the top floor complies with the rear setback control. In addition the upper floor will not be visible from the common open space or level 1 of the adjoining residential flat building. The applicant contends that "only the leading northern edge of the bevelled roof of the top floor of Building A will be viewed from the south facing openings on the top floor (second floor) of 30-34 Cobar Street and 36 Cobar Street and this will only be the case when residents are actually standing immediately adjacent to the south facing windows".

It is noted that there are no overshadowing impacts to any properties in Cobar Street given their location to the north of the site. Overshadowing impacts to 793-799 New Canterbury Road to the east of the site have been mitigated as a result of an increased eastern side setback of Building A. and remain consistent with a building that complies with height and setbacks. In addition, the solar access to the residences on the lowest level of Building A remain compliance with SEPP 65 controls related to solar access.

Adjoining lots to the north contain a number of residential flat buildings, including 30-34 Cobar Street (situated approximately 3-8.7 metres from the rear boundary) and 36 Cobar Street (located 8.9 metres from the rear boundary). Compliance with the rear setback control is considered to be vital to minimise any visual bulk or amenity impacts on neighbouring properties to the rear. The modified plans have increased the setback of the upper floor to be 7.2 metres – 10.55 metres from the rear boundary. Levels 1 - 3 of Building A has been setback between 9.56 metres (western side) - 12.36 metres (eastern side) from 30-34 Cobar Street. The rear boundary alignment of the development has been staggered to follow the irregular rear subdivision pattern of the lot.

The modified proposal is considered to meet Council's objectives for setbacks and massing given that the roof top level is not a visually dominant element and the rear massing is not considered to cause significant visual bulk or amenity impacts on neighbouring properties to the rear. In addition, the applicant proposes deep soil planting for privacy as well as privacy screens have been proposed to the northern face of Building A to reduce visual and acoustic amenity impacts from the proposal

Given the above, the modified development's rear massing is not considered to result in significant adverse visual bulk or privacy impacts and does not result in overshadowing impacts. The upper most level is consistent with the rear massing control and is considered to meet the objectives of the DCP for massing and setbacks and is considered reasonable having regard to adjoining site context and the scale of the overall development.

(ii) Building Depth (Part 5.1.3.4)

Part 5.1.3.4 of MDCP 2011 specifies the controls for building depth of relevance to the proposed development.

The proposal complies with the maximum building envelope depth of 22 metres and internal plan depth of 18 metres. The development at its maximum width for a cross through apartment measures approximately 17 metres. The proposed have balconies which measure greater than the 8sqm and minimum 2 metres prescribed under Part 2.18 and the layout and design of proposed dwellings is such that they would provide for good levels of amenity. Therefore the development is considered reasonable in this regard.

(i) Building Detail (Part 5.1.4)

(a) Building Frontages (Part 5.1.4.1)

Part 5.1.4.1 of MDCP 2011 contains objectives and controls relating to building frontages:

The street front portion of the building mass reads as the continuous dominant element in the streetscape, with upper levels above the street frontage being visually subservient. The street front portion of the building is considered acceptable and responsive to the controls. The upper levels are treated as recessive having regard to setbacks and material and finishes.

Given the above, the building frontage is considered to be acceptable.

(b) Active street frontage uses and shopfront design (Part 5.1.4.2)

Part 5.1.4.2 of MDCP 2011 specifies the controls for active street frontage uses and shopfront design. The proposal satisfies the prescribed controls given that the shopfront design of infill development is consistent with the contemporary infill development design as a whole, giving adequate consideration to access and the streetscape context.

(ii) Building Use (Part 5.1.5)

(a) Mixed use development (Part 5.1.5.1)

The proposal provides suitable opportunities for ground floor commercial uses at the site frontage with the provision of 3 commercial tenancies. The design of the ground floor tenancies are sufficiently flexible to accommodate a variety of potential future uses to achieve the desired future character of the area.

(b) Dwelling mix (Part 5.1.5.2)

Part 5.1.5.2 of MDCP 2011 prescribes the following dwelling mix requirements for mixed use developments containing 6 or more dwellings:

Unit Type	Required	Proposed	Complies
Studio	5 - 20% (4 - 16 apartments)	7% (6 apartments)	Yes
1 bedroom	10 - 40% (8 - 32 apartments)	30% (24 apartments)	Yes
2 bedroom	40 - 75% (32 - 60 apartments)	54% (43 apartments)	Yes
3 bedroom	10 - 45% (8 - 36 apartments)	9% (7 apartments)	No

Despite the non-compliance the development provides for a range of unit layouts and types that contribute to housing range and mix consistent with the intent of the control.

PART 9 – STRATEGIC CONTEXT

The land is located in the New Canterbury Road West Planning Precinct (Precinct 9.17) under MDCP 2011. That planning precinct is not one of the 13 precincts that have been completed as part of Stage 1 of MDCP 2011.

13. Marrickville Section 94/94A Contributions Plan 2014

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,333,223.94 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014.

However, the application includes a Voluntary Planning Agreement (VPA) which the applicant intends to enter into with Council for the development. The VPA seeks to provide a public benefit in addition to Section 94 Contributions being imposed by Council and an offer of an additional \$839,025 has been included in the VPA for the proposed development.

14. Any planning (or draft planning) agreement under Section 94F of the Act

The application includes a draft Voluntary Planning Agreement (VPA) which the applicant intends to enter into with Council for the development.

15. Submissions

External Referrals

The application was referred to Roads and Maritime Services (under Clause 104 of the SEPP Infrastructure and Section 138 of the Road Act 1993). RMS have responded and raised no objection to the proposal. The comments provided by RMS have been included in the body of the report. In addition, any conditions have been included in the recommendation section of the report.

Internal Referrals

The application was referred to the following internal departments and sections:

- Engineering
- Environmental Services (Contamination);
- Waste Services (Resource management);
- Local Traffic Committee;
- Tree Officer; and
- Architectural Excellence Panel (AEP).

Comments and conditions of the relevant sections are provided throughout the report as part of the assessment of issues relevant to their sections.

Community Consultation

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. 14 submissions were received (with an additional 4 submissions relating to the VPA which also raise planning issues). The submissions raised the following concerns which have already been discussed throughout the main body of this report:

- (i) These buildings are significantly higher than the surrounding buildings;
- (ii) The increase in visual bulk from the development;
- (iii) Increase the setback from the adjoining property at 793-799 New Canterbury Road;
- (iv) Privacy and overlooking opportunities between units;
- (v) Local road and transport infrastructure cannot support another 82 dwellings and the basement car park is not large enough;
- (vi) Solar access and overshadowing impacts from the development on adjoining properties
- (vii) The building is too large and not in keeping with the area. The building should hold less dwellings and be of a lesser height;
- (viii) A lovely mature tree should not be removed;

In addition to the above, the submissions raised the following concerns which are discussed under the respective headings below:

- (i) How the developer deals with hazardous wastes

Comment:

The applicant has submitted a detailed site investigation and a geotechnical report for the development, prepared by Douglas Partners in December 2014. Council's Environmental Services Section have reviewed the documents and consider that they are satisfactory. It is recommended in the conditions of consent that ensure that work in relation to hazardous wastes are conducted in accordance with these reports.

- (ii) The voluntary planning agreement has swayed council's opinion of the application

Comment:

The planning agreement does not impose an obligation on Council to grant development consent, or to exercise any function under this Act in relation to the development. The assessment of the application has been considered independently from any voluntary planning agreement negotiations as required under Section 93F of the Act. This application has been assessed on the planning merits of the development including the compliance with Council's planning controls which are considered to be acceptable given the surrounding context.

(iii) The cumulative impact of development in the area has not been considered

Comment:

Council as part of the DA process looks at the individual impacts of the development has been considered with regard to traffic, parking overshadowing etc. The impacts are generally considered to be appropriate for the site. The density of the locality was considered when drafting the LEP controls. It is noted that the site enjoys good public transport links as it is within 800 metres of Hurlstone Park Railway Station. In addition, following gazettal of the LEP the Dulwich Hill to Lilyfield extension of the light rail network opened which improved public transport access in the area. The site is located within 800 metres of a light rail station. Public transport improvements have improved the ability of the area to accommodate new development.

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.

16. Conclusion

The application seeks consent to demolish the existing improvements and construct a 5 storey development consisting of a residential flat building (Building A) containing 42 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 38 dwellings with 2 levels of basement car parking. 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 the application.

The proposal generally complies with the aims, objectives and design parameters contained in State Environmental Planning Policies (SEPPs), Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011). The development has a variation from the maximum building height and floor space ratio (FSR) development standards contained within MLEP 2011. Written submissions under Clause 4.6 of MLEP 2011 in relation to the height of buildings and FSR departures accompanied the application which are not considered to be well founded and not worthy of support.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable given the context of the site.

The application is suitable for approval subject to the imposition of appropriate conditions. A deferred commencement condition is included in the recommendation to address remediation.

PART E - RECOMMENDATION

A. THAT the development application to demolish the existing improvements and construct a 5 storey development consisting of a residential flat building (Building A) containing 42 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 38 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces 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. A Remediation Action Plan prepared in accordance with the Detail Site Investigation Statement, Project No. 84397, Document 2, prepared by Douglas Partners, dated 23 February 2015 and the requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites must be submitted to and approved by Council.

Evidence of the above matter must be produced to the Council or its delegate within 2 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, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
Job No. 5729, Dwg No. DA-1101, Issue G	Basement Floor Plan B2	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1102, Issue G	Basement Floor Plan B1	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1103, Issue H	Ground Floor Plan	21 August 2015	Candalepas Associates	21 August 2015
Job No. 5729, Dwg No. DA-1104, Issue G	Level 1 Floor Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1105, Issue G	Level 2 Floor Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1105, Issue G	Level 2 Floor Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1106, Issue G	Level 3 Floor Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1107, Issue G	Level 4 Floor Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1107, Issue G	Level 4 Floor Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1108, Issue G	Roof Plan	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1201, Issue G	Section A & B	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1301, Issue G	North Elevation Building A	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1302, Issue G	South Elevation Building A	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1303, Issue G	North Elevation Building B	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1304, Issue G	South Elevation Building B	25 June 2015	Candalepas Associates	29 June 2015

Job No. 5729, Dwg No. DA-1305, Issue G	Elevations East & West	25 June 2015	Candalepas Associates	29 June 2015
Job No. 5729, Dwg No. DA-1401, Issue G	Adaptable Unit Plans	25 June 2015	Candalepas Associates	29 June 2015
20141173 Rev 2	WSUD Report (Part 3 Water Quality Monitoring and Appendix B Stormwater 360 Data Sheets)	1 May 2015	Jones Nicholson Consulting Engineers	3 May 2015
14060_LA_002	Landscape Site Plan	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_003	Landscape Plan - North	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_004	Landscape Plan - South	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_005	Landscape Solutions	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_006	Landscape Indicative Planting Palette	22 April 2015	ASPECT Studios	7 May 2015
141173, C001, Amendment 2	Civil Design Cover Sheet and Notes	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, C005, Amendment 2	Civil Design Basement B2 Stormwater Plan	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, C010, Amendment 2	Civil Design Typical drainage details Sheet 1	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, C011, Amendment 2	Civil Design Typical drainage details Sheet 2	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, C012, Amendment 2	Civil Design Typical drainage details Sheet 3	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, C013, Amendment 2	Civil Design Typical drainage details Sheet 4	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, C006, Amendment 5	Ground Floor Stormwater Layout	6 May 2015	Jones Nicholson Consulting Engineers	7 May 2015
141173, C007, Amendment 2	Civil Design Ground Floor Stormwater Details	1 May 2015	Jones Nicholson Consulting Engineers	7 May 2015
141173, ESM1, Amendment 2	Civil Design Environmental Site Management Plan	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015

141173, ESM2 Amendment 2	Civil Design Environmental Site Management Details Sheet 1	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
141173, ESM3 Amendment 2	Civil Design Environmental Site Management Details Sheet 2	24 February 2015	Jones Nicholson Consulting Engineers	3 March 2015
2684R20150213- mfc801-807 NewCanterburyRd - DulwichHill	Acoustic Assessment (Part 9 Recommendations, Part 10 Recommendations to achieve BCA Requirements, Part 11 Summary and Conclusion)	13 February 2015	Koikas Acoustics Pty Ltd	3 March 2015
2356AIA	Arboricultural Impact Assessment (Part 5 Recommendations for Tree Management)	February 2015	Tree Wise Men Australia Pty Ltd	3 March 2015
Project 84397	Detailed Site Investigation (Contamination) (Part 11 Discussion of Results and Part 12 Conclusions and Recommendations)	February 2015	Douglas Partners	3 March 2015
Project 84397	Geotechnical Investigation (Part 8 Comments)	December 2014	Douglas Partners	3 March 2015
Version V110811/A, Certificate Number 16450057	NatHERS Thermal Performance – Multi Dwelling Certificate	24 February 2015	Dean Gorman	3 March 2015
Final V2	Access Review (Part 3 Site Ingress and egress, Part 4 Residential Paths of Travel, Part 5 Accommodation and Part 6 Common Areas)	23 February 2015	Morris-Goding Accessibility Consulting	3 March 2015
608372M	BASIX Certificate	24 February 2015	NSW Department of Planning and Environment	3 March 2015
J150036	BCA report (Part 3 Statement Of Compliance And Annexure A Detailed Assessment of The Deemed-To- Satisfy Provisions Of The Building Code Of Australia)	24 February 2015	Vic Lilli and Partners	3 March 2015

Project No 5729	SEPP 65 Design Verification Statement	Undated	Candalepas Associates	3 March 2015
	Recycling and Waste Management Plan	23 February 2015	Con Haralambis	3 March 2015

and details submitted to Council on 3 March 2015, 7 May 2015, 25 June 2015, 29 June 2015 and 21 August 2015 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. Where any plans and/or information forming part of a construction certificate issued in relation to this consent are inconsistent with:

- (a) the plans and/or information approved under this consent; or
- (b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

3. In order to ensure the architectural and urban design excellence of the development is retained:
 - i) The design architect is to have direct involvement in the design documentation, contract documentation and construction strategies of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to the Council prior to the release of the construction certificate.

b. The design architect of the project is not to be changed without prior notice and approval of the Council's Director Planning and Environmental Services.

Reason: To ensure design excellence is maintained.

4. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in Job No. 5729, Dwg Nos. DA-1301-DA1305, Issue G dated 29 June 2015, prepared by Candalepas Associates. No changes may be made to these drawings except by way of an application under section 96 of the Environmental Planning and Assessment Act 1979.

Reason: To ensure the final built development has an appearance that accords with the approved materials and finishes.

5. Site remediation works being carried out for the site in accordance with Detailed Site Investigation Report and Remediation Action Plan submitted in accordance with Part A of this determination. Once these works have been carried out a validation report is to be submitted to Council prepared in accordance with the requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites to Council's satisfaction.

Reason: To ensure that the site is suitable for the intended use.

6. Where units or dwellings are provided with separate individual hot water systems, these must be located within the internal area of the unit/dwelling and not on any balcony or terrace.
Reason: To ensure the aesthetics of the building and architecture are maintained.
7. Separate Development Consent or Complying Development Certificate must be obtained for the use of the ground floor shops/commercial suites prior to the occupation of that part of the premises.
Reason: To advise the applicant of the necessity of obtaining Council approval for the use of the shops/commercial suites prior to their occupation.
8. The ongoing use of the ground floor commercial tenancies complying with the following requirements at all times:
- a) The areas to be used as shops must be restricted to the ground floor commercial tenancies;
 - b) The shop window display areas must be maintained at all times with no roller shutters being installed across the shopfronts;
 - c) The hours of operation are restricted to between the hours of 7.00am to 7.00pm Monday to Saturday and not at any time on Sundays or public holidays;
 - d) All loading and unloading in connection with the use must be carried out wholly within the property from the dedicated loading space at the rear of the site, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public;
 - e) No storage of goods or equipment external to any building on the site is permitted; and
 - f) No signs or goods must 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 ensure that the commercial uses are confined to the ground floor shop areas, to preserve the streetscape and character of the area and to ensure that the operation of the premises does not interfere with the amenity of the locality.
9. Each dwelling must be used exclusively as a single dwelling and not be adapted for use as backpackers' accommodation, serviced apartments or a boarding house and not be used for any industrial or commercial purpose.
Reason: To ensure that the proposed dwellings are used exclusively as single dwellings.
10. A minimum of 16 adaptable dwellings must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility.
Reason: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.
11. 108 off-street car parking spaces must be provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking. The parking must be allocated as follows:
- a) A minimum of 65 spaces being allocated to the residential dwellings, with 1 car space being allocated per dwelling with the exception of the tandem spaces which must be allocated to 2 or 3 bedroom apartments;
 - b) 22 accessible car parking spaces, 1 accessible car space per adaptable dwelling;
 - c) 12 visitor car parking spaces, 6 of which is designed as an accessible space; and
 - d) 9 car parking spaces allocated to the ground floor retail/commercial tenancies.

All accessible car spaces must be provided and marked as disabled car parking spaces.

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

12. 48 off-street bicycle parking spaces must be 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.
13. 4 off-street motorcycle parking spaces must be 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.
14. 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 must be 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.
15. No injury must be 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.
16. The use of the premises, including any plant and equipment, must not give 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 5dB(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).
- Reason: To prevent loss of amenity to the area.
17. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises must not give rise to 'offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure their operation does not adversely impact on the amenity of the surrounding neighbourhood.
Reason: To protect the amenity of the surrounding neighbourhood.
18. All trees, covered by Part 2.20 of Marrickville Development Control Plan 2011 - Tree Management, not requiring removal to permit the erection of the development must be retained.
Reason: To preserve existing mature trees on the property.
19. Separate Development Consent or Complying Development Certificate must be obtained prior to the erection of any advertisements or advertising structures. The shop windows must not be painted with advertisements and no flashing lights are to be installed on the premises.
Reason: To confirm the terms of Council's approval.
20. The developer must liaise 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.

21. All trade waste must be 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.
22. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
Reason: To ensure the work is carried out to an acceptable standard and in accordance with the National Construction Code (Building Code of Australia).
23. Where the Voluntary Planning Agreement (VPA) places pre-conditions on the issuing of a construction certificate or occupation certificate, no such certificate may be issued until such time as the relevant pre-conditions in the VPA have been satisfied.
Reason: To comply with the provisions of the Voluntary Planning Agreement.
24. Any development that is approved by this consent and which is the subject of the Voluntary Planning Agreement (VPA) must be carried out in compliance with the requirements of the VPA and this consent.
Reason: To comply with the provisions of the Environmental Planning and Assessment Act.
25. All roof-top plant and associated equipment must be located within the approved building envelope as detailed in the plans listed in Condition 1.
Reason: To confirm the terms of this consent.
26. The tree protection measures contained in the Arboricultural Impact Assessment (AIA) report (Tree Wise Men, February 2015) shall be implemented and complied with for the duration of the project.
Reason: To ensure minimal impact upon trees in neighbouring properties.
27. The proposed awning shall be of cantilever type and be set back at least 600mm from the kerb line. The proposed awning shall be designed so as to be easily removed if required in future. The awning shall include pedestrian lighting (Category P3-AS1158) and shall be maintained and owned by the property owner(s). The owner shall maintain, modify or remove the structure at any time if given notification by Council to do so. All works shall be at no cost to Council.
Reason: To ensure the awning complies with Council requirements.
28. Owners and occupants of the proposed building shall not be eligible for any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition.
Reason: To ensure the development does not reduce the amount of "on street" parking currently available.
29. 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 Ausgrid 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.
30. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the water may be stored separately on site and reused for the watering of landscaped areas.
Reason: To ensure that there are no dry-weather flows of any seepage water directed to the kerb.

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 National Construction Code (Building Code of Australia).

31. No work must commence until:

- a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council shall be notified within 2 days of the appointment; and
- b) A minimum of 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.

32. A Construction Certificate must 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.

33. Sanitary facilities must 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 must be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities must be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

34. All demolition work must:

- 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 must 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.

35. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must 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.

36. All services in the building being demolished must 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.

37. A waste management plan must be prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.

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

38. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.

Enquiries for site fencing and hoardings in a public place, including the need for Council approval, can be made by contacting Council's Infrastructure Services Division.

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

39. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must 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.

40. A Soil and Water Management Plan must 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 must be submitted to and accepted by PCA before work commences. The plan must 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 must be constructed and maintained on site while work is carried out.

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

41. The person acting on this consent is responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at 793-799 New Canterbury Road, 819 New Canterbury Road, 30-34 Cobar Street and 36 Cobar Street, Dulwich Hill if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

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

42. Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.

Reason: To provide a person that residents can contact.

43. If a new street number or a change to the street number (this includes unit and shop numbers) is required, a separate application must be made to and approved by council prior to that street number being displayed.

Reason: To ensure that the building is easily identifiable.

44. Prior to the commencement of works, an arborist, who has a minimum AQF Level 5 qualification in arboriculture and who does not prune or remove trees in the Marrickville LGA, shall be engaged as project arborist for the duration of demolition and construction.

Reason: To provide professional guidance and ensure that the trees on the property are effectively managed and protected.

45. Prior to the commencement of works, including demolition, protection measures shall be established in accordance with the recommendations of Arboricultural Impact Assessment (AIA) report (Tree Wise Men, February 2015).

Reason: To provide adequate and appropriate protection to trees on neighbouring properties that may be impacted by the proposed works.

46. Prior to the commencement of works, the project arborist shall certify in writing to the Principal Certifying Authority that the tree protection measures comply with the recommendations contained in the Arboricultural Impact Assessment (AIA) report (Tree Wise Men, February 2015).

Reason: To ensure the tree protection measures are in place prior to work commencing.

47. 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.

48. 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.

49. 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

50. 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 etc.

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

51. 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.

52. Compliance with the following requirements of Roads and Maritime Services (RMS) before commencement of works;

- i. The person acting on this consent 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 documentation shall be submitted at least 6 weeks before the commencement of construction. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on this consent shall ensure that the owners of the roadway are given 7 days notice of the intention to excavate. The notice shall include the full details of the proposed works; and
- ii. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to RMS for approval before the commencement of any works.

Details of the above must be forwarded to, Project Engineer, External Works, Sydney Asset Management, Parramatta (Telephone 8849 2114). A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant before the issue of approved plans by RMS.

Reason: To comply with the requirements of Roads and Maritime Services (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.

53. The separate lots comprising the development must be consolidated into one lot and under one title and registered at the NSW Department of Lands before the issue of a Construction Certificate.

Reason: To prevent future dealing in separately titled land, the subject of one consolidated site development.

54. Evidence of payment of the building and construction industry Long Service Leave Scheme, must 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>.

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

55. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details - see Plumbing, building and developing then Quick Check agents and

- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Plumbing, building and developing then Plan submissions or telephone 13 20 92.

The stamped plans must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure compliance with Sydney Water requirements.

56. A design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.

57. All plumbing and ductwork including stormwater downpipes must be concealed within the outer walls of the building so they are not visible. Plans and elevations detailing the method of concealment must be submitted to and approved by Council before the issue of a Construction Certificate. Any variation to this requirement requires Council approval.

Reason: To ensure the aesthetics of the building and architecture are maintained.

58. A detailed plan showing the height, colour and material of all fencing within the development in accordance with Part 2.11 of Marrickville Development Control Plan 2011 – Fencing must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure all fencing is in keeping with the character of the area and maintains adequate privacy.

59. Letterboxes and mail collection facilities must be provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure adequate mail collection facilities are provided.

60. Adequate clothes drying facilities must be provided for the development in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. Where such facilities are provided on street facing balconies, the areas/facilities must be appropriately screened from view from the street.

Reason: To ensure adequate clothes drying facilities are provided.

61. Lighting details of the pedestrian areas, parking areas and all entrances must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

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

62. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

NOTE: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate (Refer to Clause 6A of Schedule 1 to the Regulation).

Reason: To ensure that the BASIX commitments are incorporated into the development.

63. Insulation, having a minimum R3.0 rating, must be provided to the ceiling or roofs in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To achieve an overall increase in thermal comfort and reduce the impact of greenhouse gases on the environment.

64. Reticulated gas infrastructure, with a separate meter for each dwelling must be provided to each dwelling in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To provide the potential to reduce greenhouse emissions.

65. A hot water system with a minimum 3.5 energy star Greenhouse rating must be provided for each dwelling in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure that the dwellings incorporate energy and water efficient measures.

66. Details of an anti graffiti treatment to the elevations of the development must be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure the proposed development remains free of graffiti.

67. Advanced trees shall be planted in accordance with the following criteria.

- a) Trees shall be planted following completion of all construction work.
- b) A minimum of eight (8) trees shall be planted within the subject property in accordance with the landscape plan and incorporating species listed in the indicative tree planting schedule.
- c) At least one *Lophostemon confertus* (brush box) shall be planted within the subject property.
- d) The minimum planting sizes for trees shall be at least 100 litres.
- e) Trees shall be located a minimum of 2 metres from any building and a minimum of 1 metre from any fence or landscape structure.
- f) Tree shall comply with NATSPEC.
- g) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
- h) Each new tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
- i) If any tree dies or is removed before it attains 5 metres in height, it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

Details demonstrating compliance with the above must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To provide adequate and appropriate compensation for the oak tree that is removed and to ensure local amenity and urban forest canopy is maintained at a sustainable level.

68. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" in relation to interior design sound levels and in accordance with details being 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, State Environmental

Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

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

69. Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards)

Reason: To ensure that the premises are accessible to all persons

70. Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction indicating the following:

- a) Access to the premises via the principal places of entries to the building, complying with AS 1428.1- 2009 'Design for access and mobility';
- b) An accessible toilet complying with AS 1428.1- 2009 'Design for access and mobility' being provided for the commercial tenancies;
- c) The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement;
- d) A minimum of 16 adaptable dwellings being provided complying with AS 4299-1995 "Adaptable Housing"; and
- f) A minimum of 20 car parking spaces (16 accessible residential car spaces and 4 accessible visitor car spaces) must be provided for people with a disability that are directly accessible to the entrance to the building. The car parking must be designed to comply with AS 1428.1 - 2009 'Design for access and mobility - General requirements for access - buildings' and AS 2890.1 1 'Off-street car parking'.

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

71. The person acting on this consent shall provide to Council a bond in the amount of \$37,704.20 and pay the related Section 138 (Roads Act) inspection fee of \$209.00 (GST inclusive) before the issue of a Construction Certificate to ensure the proper completion of the footpath and/or vehicular crossing works required as a result of this development.

Reason: To provide security for the proper completion of the footpath and/or vehicular crossing works.

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

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

73. Compliance with the following requirements of Roads and Maritime Services (RMS) before the issue of the Construction Certificate;

- i. The design of the gutter crossing and the raised central concrete median on New Canterbury Road shall be in accordance with Roads and Maritime requirements. Details of these requirements may be obtained from RMS, Manager Developer Works, Statewide Delivery, Parramatta (Telephone 8849 2138). Detailed design plans of the proposed gutter crossing and central concrete median must be submitted to RMS for approval before the issue of a Construction Certificate and/or commencement of any road works. A plan checking fee (amount to be advised) and lodgement of a performance bond may be required before the issue of the of the approved design plans by RMS; and

- ii. All vehicles must enter and leave the site in a forward direction and are to be wholly contained on site before being required to stop. In this regard any proposed roller door (or other vehicle control point) to the basement must be located a minimum of 6m from the front boundary of the site. Amended plans shall be submitted to Council for approval before the issue of a Construction Certificate.

Reason: To comply with the requirements of the Roads and Maritime Services (RMS).

74. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:

- i. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, undergrounding of overhead electrical wires, landscaping, street furniture, etc shall be reconstructed and upgraded in accordance with the Street Tree Masterplan, the Draft Marrickville Public Domain Code and Draft Technical Manual or Council's standard plans and specification in place for New Canterbury Road at the time the works are undertaken;
- ii. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- iii. New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) shall be consistent with the majority of kerb type at this location. Council may be able to assist with the supply of stone if required. Please contact Council's Infrastructure Services Division on 9335 2000; and
- iv. Alignment levels to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations.

Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate.

Reason: To provide for essential improvement works to the public domain consistent with Council's desired future character for the area

75. The stormwater drainage, re-use and quality measures shall be constructed generally in accordance with the Stormwater Plans C001-2, C005-2, C006-5, C007-2, C010-2, C011-2, C012-2, and C013-2 and the WSUD Strategy Report submitted by Jones Nicholson Consulting Engineers subject to the submission of the following additional information and/or amendments;

- i. The MUSIC file and the node for the Psorb filter cartridges shall be reviewed as there is a large unexplained reduction in water output of the model;
- ii. Details and a design of the proposed soakage pit at the rear shall be submitted for review
- iii. Groundwater testing to determine seepage inflow rates and any requirements relating to the treatment of groundwater. Depending on the outcome of the ground water testing, recommendations as to any requirements for groundwater monitoring as part of the operation of the basement sump pump system; and
- iv. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the water may be stored separately on site and re-used once treated (if necessary) for the watering of landscaped areas.

The above additional information shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure that the site use of potable water is minimised and that the quality of stormwater discharged off site is improved.

76. All plumbing and ductwork including stormwater downpipes must be concealed within the outer walls of the building so they are not visible. Plans and elevations detailing the method of concealment must be submitted to and approved by Council before the issue of a Construction Certificate. Any variation to this requirement requires Council approval.
Reason: To ensure the aesthetics of the building and architecture are maintained.

SITE WORKS

77. All demolition, construction and associated work necessary for the carrying out of the development must be restricted to between the hours of 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer must ensure that all contractors associated with the development are fully aware of these requirements.

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

78. Notwithstanding the above condition, all remediation works must be restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday.

Reason: To ensure that the remediation works are only carried out during the hours of operation permitted under Part 2.24 of Marrickville Development Control Plan 2011 – Contaminated Land.

79. During any construction works and activities, no injury must be 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 construction of the development does not affect the amenity of the neighbourhood.

80. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

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

81. 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 must 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.

82. All demolition work must be 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 must 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 must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities 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 must 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, must only have 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 must be 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 must ensure 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.

83. 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 National Construction Code (Building Code of Australia).

84. All fill imported on to the site must be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site must also be compatible with the existing soil characteristic for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- b) Sampling and analysis of the fill material should be conducted in accordance with the EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

Reason: To ensure that imported fill is of an acceptable standard.

85. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent must ensure:

- a) At least 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; and
- b) That any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is 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 must 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.

86. 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.

87. Satisfactory methods and/or devices must be employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.

Reason: To prevent soil particles from being tracked and deposited onto the streets surrounding the site.

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

Reason: To provide for correct disposal of wastes.

89. A certificate of survey from a registered land surveyor must 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.

90. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.

Reason: To provide safe egress in case of fire or other emergency.

91. Fixtures for bathroom and kitchen taps, showerheads, dishwashers, toilet cisterns and urinals must have a minimum 3 Star WELS rating.

NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.

Reason: To conserve water.

92. New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient.

NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: www.waterrating.gov.au.

Reason: To conserve water.

93. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and must be 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.

94. All stormwater drainage must be 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 must be designed to cater for the 20 year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the 20 year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the 50 year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths must be designed to cater for the 100 year A.R.I. storm.

Reason: To provide for adequate site drainage.

95. No activities, storage or disposal of materials must take place beneath the canopy of any tree protected under Part 2.20 of Marrickville Development Control Plan 2011 - Tree Management at any time.

Reason: To protect existing trees.

96. All builders' refuse, spoil and/or material unsuitable for use in landscape areas must be removed from the site on completion of the building works.

Reason: To protect the environment.

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

Reason: To protect existing trees.

BEFORE OCCUPATION OF THE BUILDING

98. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 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.

99. Occupation of the building must 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.

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

- 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 12 months after the Final Fire Safety Certificate is issued the owner must 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.

101. Upon the completion of any remediation works stated in the RAP the person acting on this consent must submit to Council a Validation and Monitoring Report. The report is to be conducted in accordance with the NSW Environment Protection Authority's *"Guidelines for Consultants Reporting on Contaminated Sites 1998"*.

Reason: To ensure that the remediated site complies with the objectives of the RAP.

102. The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

Reason: To ensure compliance with Sydney Water requirements.

103. Before the issue of an Occupation Certificate, the project arborist shall certify in writing to the Principal Certifying Authority that the conditions of consent relating to tree protection and new tree planting have been complied with or, if the conditions have been contravened, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Marrickville Council.

Reason: To ensure compliance with conditions and thereby protect the trees being retained and ensure new trees are properly planted.

104. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

105. A design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development must be submitted to Council's satisfaction before the issue of an Occupation Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

106. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).

Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.

107. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.

Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.

108. 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 before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant, certifying that the final construction meets Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled “Development Near Rail Corridors and Busy Roads - Interim Guidelines” as set down in the subject condition of this consent. Such report must 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 must be carried out and a further certificate must be 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 dwellings from aircraft and road noise and to ensure that the noise attenuation measures incorporated into the dwellings satisfactorily comply with the relevant sections of Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled “Development Near Rail Corridors and Busy Roads - Interim Guidelines”.

109. Before the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.

Reason: To ensure that the building is easily identifiable.

110. Before the issue of an Occupation Certificate (interim or final) the person acting on this consent must contact Council's Coordinator, Resource Recovery to arrange the following number of bins in relation to the residential component of the approved development:

- 14 x 240 litre (or 5 x 660 litre) bins for general waste streams;
- 27 x 240 litre (or 10 x 660 litre) for recycling waste streams; and
- 6 x 240L green waste bins.

Reason: To confirm the operation and servicing of the site meets Council's requirements prior to occupation or use of the building.

111. Before the issue of an Occupation Certificate (interim or final) the person acting on this consent must contact Council's Coordinator, Resource Recovery and confirm the key lock system to be installed on the residential interim waste storage areas accessible from New Canterbury Road.

Reason: To confirm the operation and servicing of the site meets Council's requirements prior to occupation or use of the building.

112. Before the issue of the Occupation Certificate, the project arborist shall certify in writing to the Principal Certifying Authority that the conditions of consent relating to tree protection and new tree planting have been complied with or, if the conditions have been contravened, detail the extent and nature of the departure from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Marrickville Council.

Reason: To ensure compliance with conditions and thereby protect the trees being retained and ensure new trees are properly planted.

113. 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 the Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

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

114. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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

115. 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 the Occupation Certificate.

Reason: To ensure there is no encroachment onto Council's Road.

116. 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 the Occupation Certificate and at no cost to Council.

Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.

117. 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 the 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.
118. Before the issue of the 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 WSUD Strategy Report submitted by Jones Nicholson Consulting Engineers shall be submitted to and accepted by Council. The Certificate shall also state that no dry-weather flows of seepage or groundwater have been connected to any kerb outlets. 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.
119. With the regard to the Stormwater Treatment Facilities a Positive Covenant shall be placed on the Title in favour of Council before issue of the Occupation Certificate. The Positive Covenant shall include the following:
- a) The proprietor of the property shall be responsible for maintaining the stormwater treatment facility as outlined in the approved WSUD Strategy Report submitted by Jones Nicholson Consulting Engineers;
 - 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 competent person to record the annual inspections.
 - 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.
120. The existing overhead power cables along New Canterbury Road frontage of the site must be relocated underground with appropriate street lighting and new steel poles being installed at no cost to Council and before the issue of an Occupation Certificate. The street lighting shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet lighting category required by RMS. Plans shall be submitted to and approved by Council before submission to Ausgrid for implementation.
Reason: To ensure appropriate lighting is provided to create a safe environment and to protect the amenity of the surrounding neighbourhood from the emission of light.
121. With the regard to the On Site Detention System (OSD), a Positive Covenant in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code shall be placed on the Title in favour of Council before the issue of the 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.
122. All instruments under Section 88B of the Conveyancy Act used to create easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.



Reason: To ensure Council's interests are protected.

123. Prior to issue of the 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.

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 National Construction Code (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.
- Any natural light or ventilation gained by windows within 900mm of the boundary will not be taken into consideration in the event that the adjoining property owner makes application to Council to carry out building works on their property. The window has been consented to on the basis that alternative sources of light and ventilation are available to the room.
- 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.
- 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.
Reason: To ensure the civil works are constructed to Council's specifications.
- 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 Environmental Solutions	 1300 651 116 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 Environment be advised, as part of the quarterly review of the monitoring of Clause 4.6 of Marrickville Local Environmental Plan 2011 -

Exceptions to Development Standards, that the Sydney East Joint Regional Planning Panel has agreed to the variation of the following development standards:

<u>Premises:</u>	801-807 New Canterbury Road Dulwich Hill
<u>Applicant:</u>	Haralambis Constructions Pty Ltd
<u>Proposal:</u>	To demolish existing improvements and construct a 5 storey development consisting of a residential flat building (Building A) containing 42 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 38 dwellings with 2 levels of basement car parking containing 108 car parking spaces.
<u>Determination:</u>	Approval
<u>DA No:</u>	201500081
<u>Lot and DP:</u>	Lot 6 in DP 4040, Lot B in DP 937092, Lot 1 in DP 104521, and Lot 4 in DP 1125682.
<u>Category of Development:</u>	9 Mixed
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	B2 Local Centre
<u>Development Standard(s) varied:</u>	Clause 4.3 – Maximum height of building, Clause 4.4 – Floor space ratio
<u>Justification of variation:</u>	<i>Building Height:</i> Strict compliance with the FSR development standard is unnecessary; The additional FSR does not contribute to additional adverse impacts on adjacent development. <i>FSR:</i> Strict compliance with the FSR development standard is unnecessary; The additional FSR does not contribute to additional adverse impacts on adjacent development.
<u>Extent of variation:</u>	Building Height: 26.4% FSR: 34%
<u>Concurring Authority:</u>	Joint Regional Planning Panel under assumed concurrence of the Secretary Department of Planning and Environment
<u>Date of Determination:</u>	

D. THAT Road and Maritime Services (RMS) be advised of Council's Determination of the application.

Assessment Officer: Daniel East **Date:** 24 August 2015