

File Ref: DA201500081

Summary

This report concerns the amended plans and additional information submitted to Council for an original application 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.

The amended plans and additional information were submitted in response to the resolution of the Joint Regional Planning Panel (JRPP) at its meeting on 10 September 2015.

The amended proposal seeks to demolish the existing improvements and construct a 4 storey development consisting of a residential flat building (Building A) containing 37 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 30 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces. The proposal has deleted the top floor off both Building A and Building B.

The amended 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 amended development has a variation of 16% from the floor space ratio (FSR) development standard contained within MLEP 2011. An amended written submission under Clause 4.6 of MLEP 2011 in relation to the FSR departures accompanied the application which is considered to be well founded and worthy of support.

The amended proposal is considered to be suitable for approval subject to the imposition of appropriate conditions. A deferred commencement condition is included in the recommendation to address remediation as per the original recommendation considered by the JRPP on 10 September 2015.

1. Background

A report on an application 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 was considered by the JRPP at its meeting on 10 September 2015. A copy of that assessment report is attached as Attachment 1.

The Panel resolved unanimously to defer the determination of the application for the following reasons:

1. *"The Panel resolves unanimously to defer the application for the submission of amended plans to remove level 4 from both Buildings A and B. As submitted to the Panel, the proposal exceeds the relevant floor space ratio by over 1,800sqm and the building height control by more than 1 level. While a request to vary the standards under Clause 4.6 of the Marrickville LEP was submitted, it failed to justify the variations in terms of the issues raised in the recent Court matter 'Four2Five v Ashfield Council'. In specific terms, the outcome of the above decision requires demonstration that compliance with the relevant controls is unreasonable or unnecessary in the circumstances of the site. The panel notes that this is the first DA in this precinct under the current LEP and there is no indication that Council has varied its standards, except where there is a disconnect between the LEP and DCP controls in relation to building height and FSR. Accordingly the panel requests;*

2. The applicant provide amended plans, deleting Level 4 off both Buildings A and B and an amended Clause 4.6 variation request dealing with the matters raised in the Four2Five decisions. This information should be submitted to Council by C.O.B Wednesday 30 September 2015.
3. Council provide a Supplementary Assessment Report to the Regional Panel's Secretariat by 14 October 2015 indicating satisfactory compliance with the matters contained in Point 2 above;
4. Should the requirements of points 2 and 3 above be satisfied the Panel will reconsider this matter and determine it by electronic means unless the Panel Chair considers it necessary to hold another public meeting.
5. Alternatively should the applicant not wish to comply with points 2 and 3 the Panel will reconvene to determine the DA in its current form, noting the matters raised in Point 1 above."

2. Amended plans

On 24 September 2015 the applicant submitted amended plans and additional information that responded to the above resolution of the JRPP. A copy of the amended floor plans, elevations submitted to Council on 24 September 2015 are reproduced below:

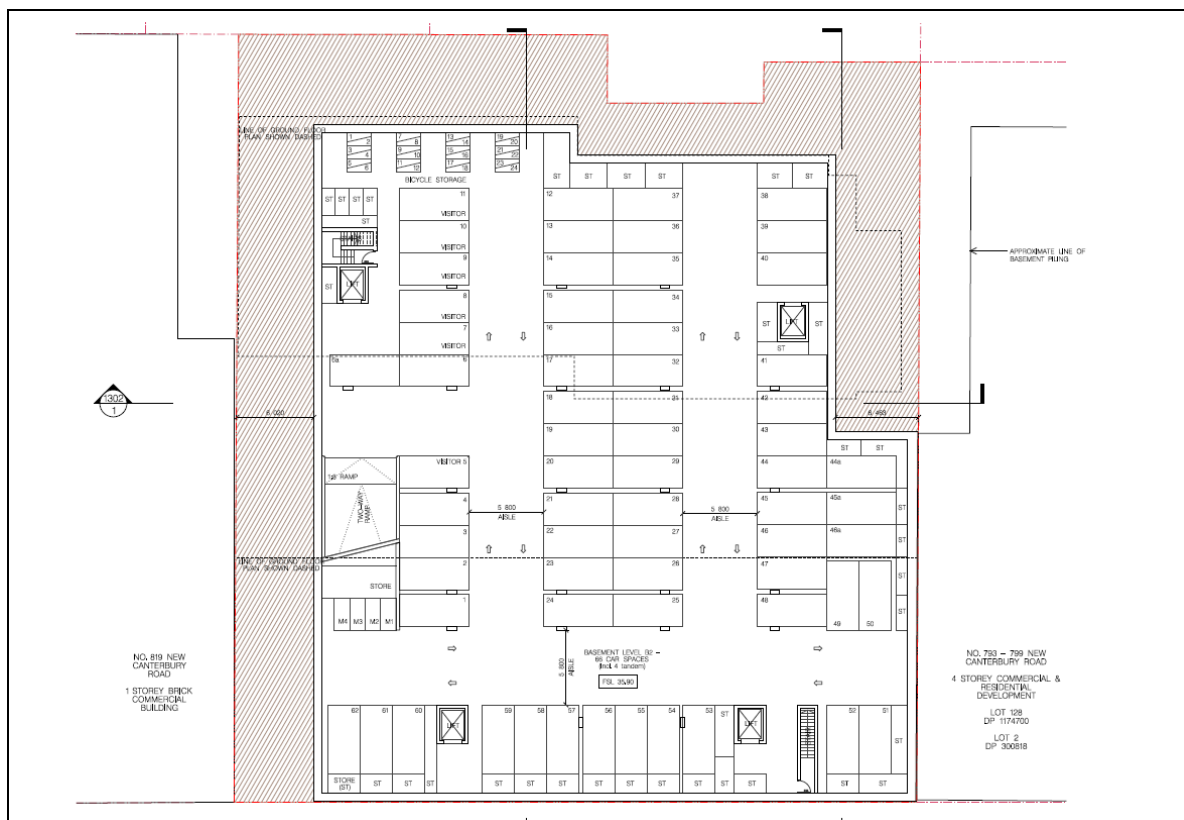


Image 1: Basement Floor Plan B2

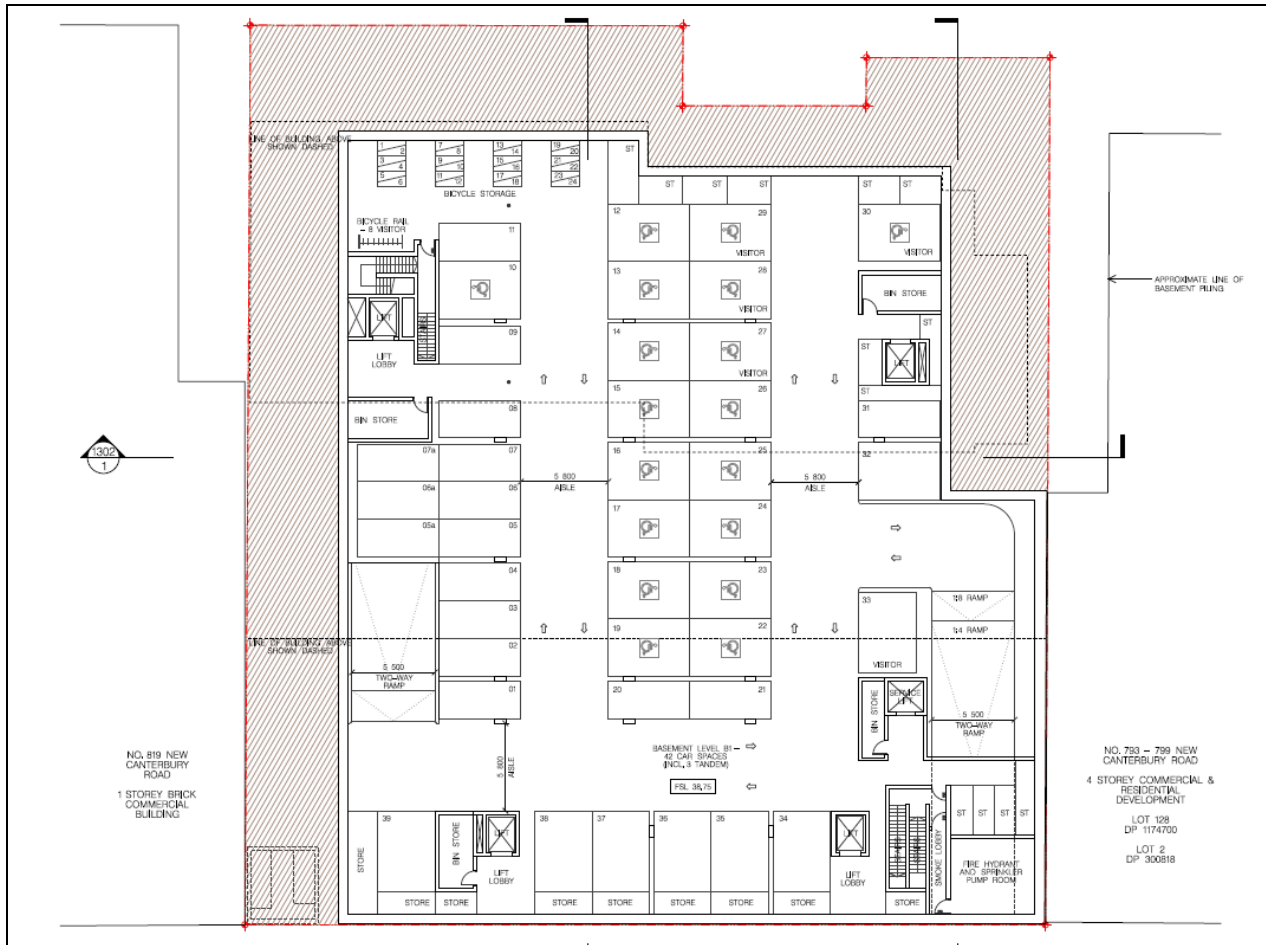


Image 2: Basement Floor Plan B1

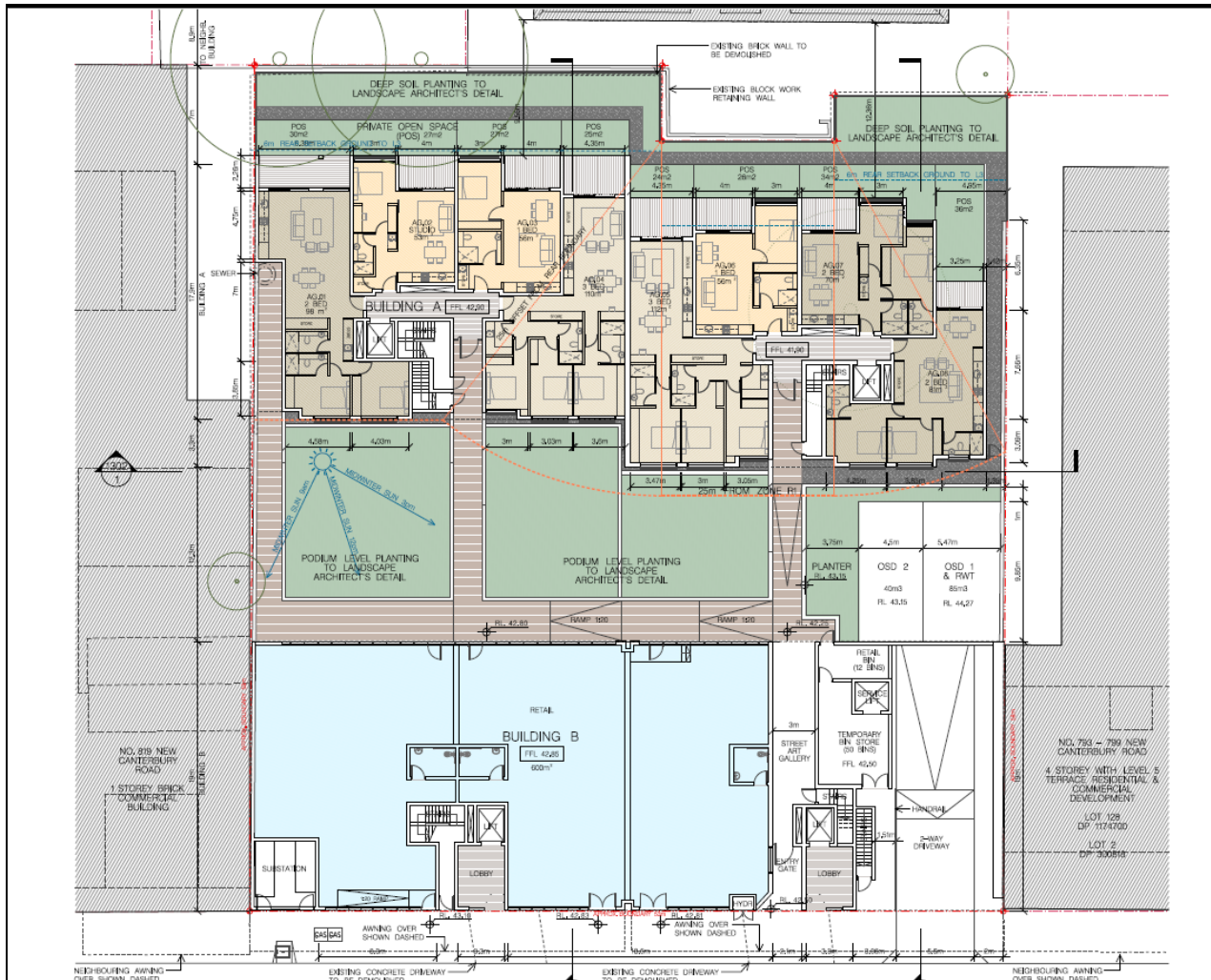


Image 3: Ground Floor Plan

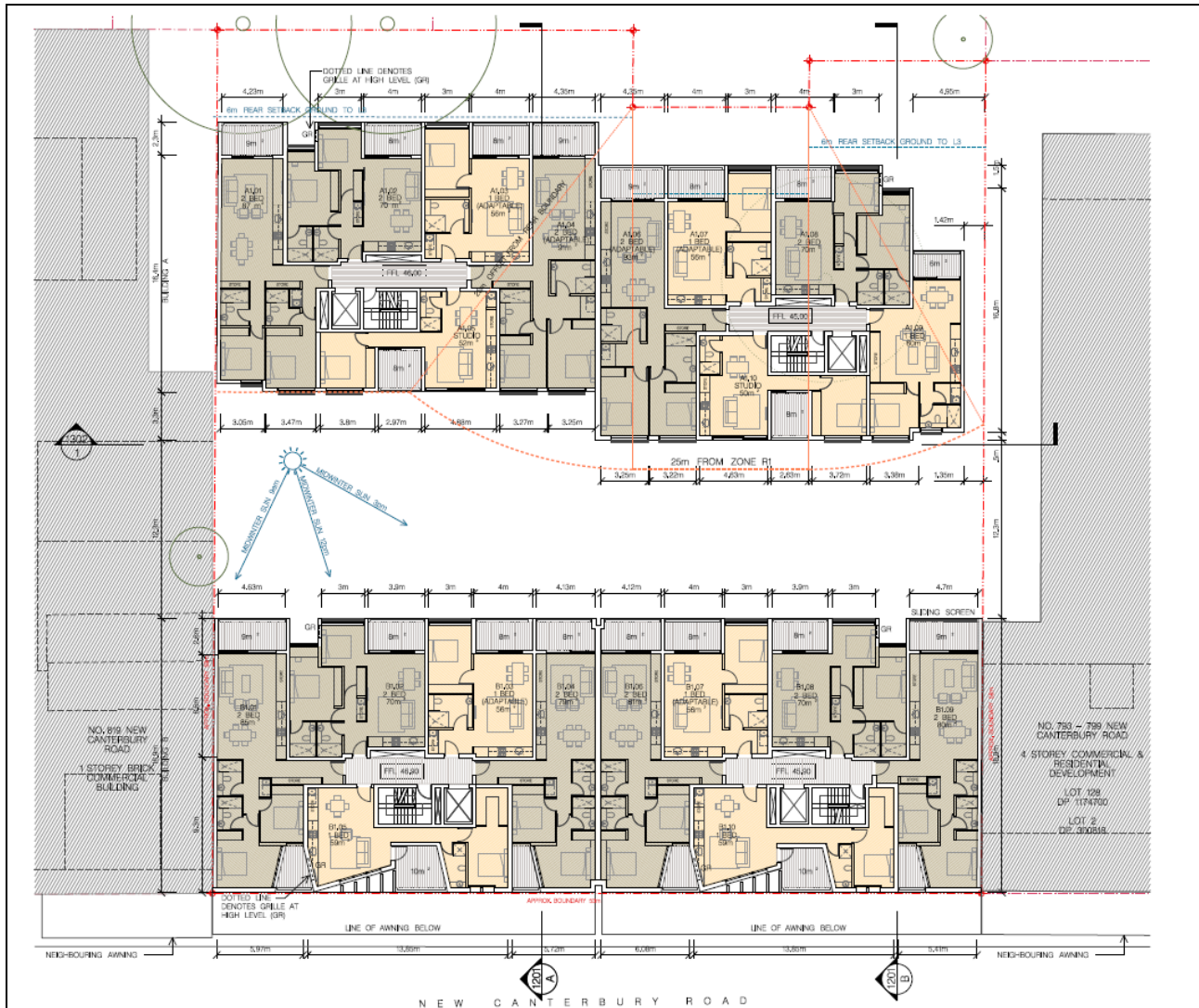


Image 4: First Floor Plan



Image 5: Second Floor Plan



Image 6: Third Floor Plan

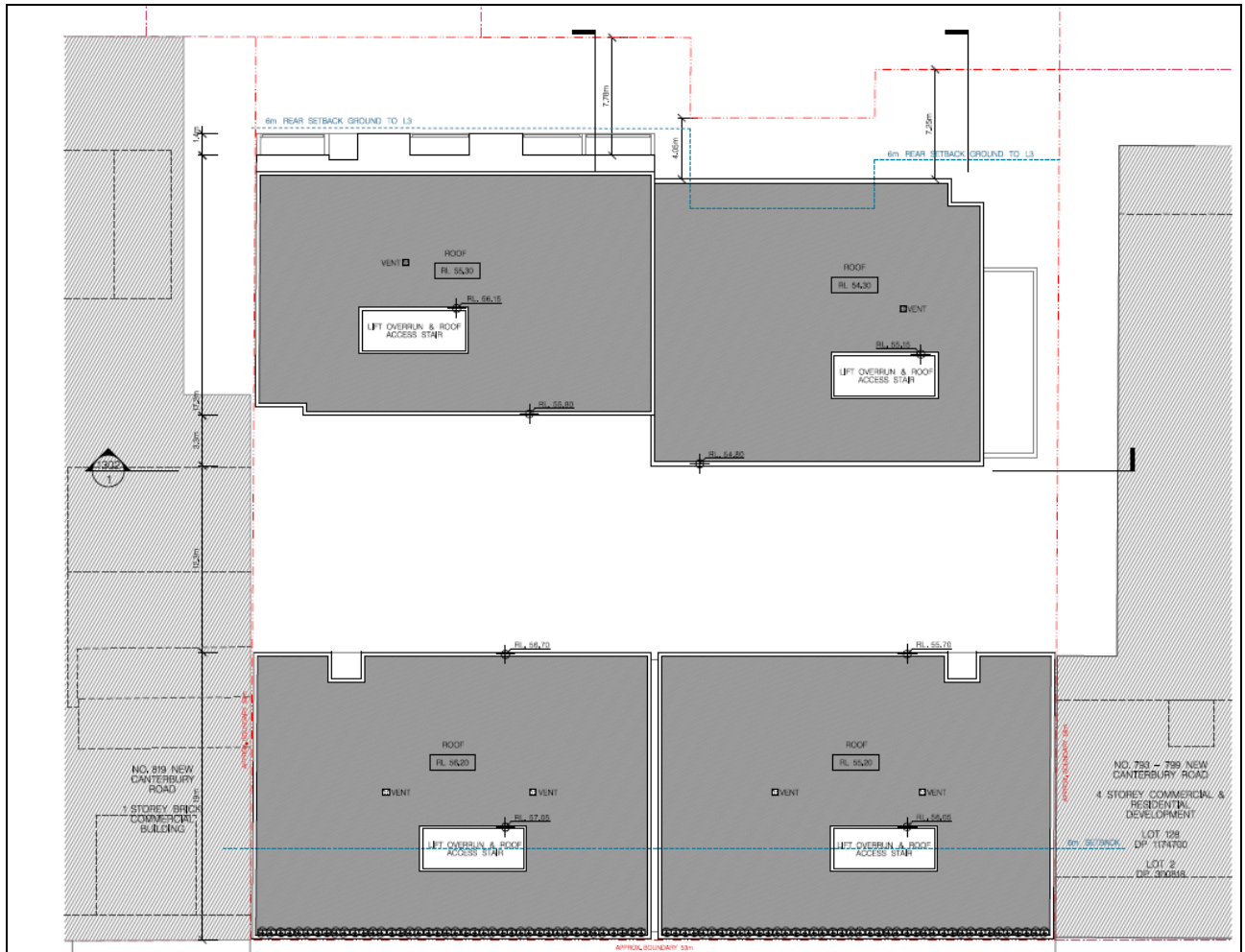


Image 7: Roof Plan

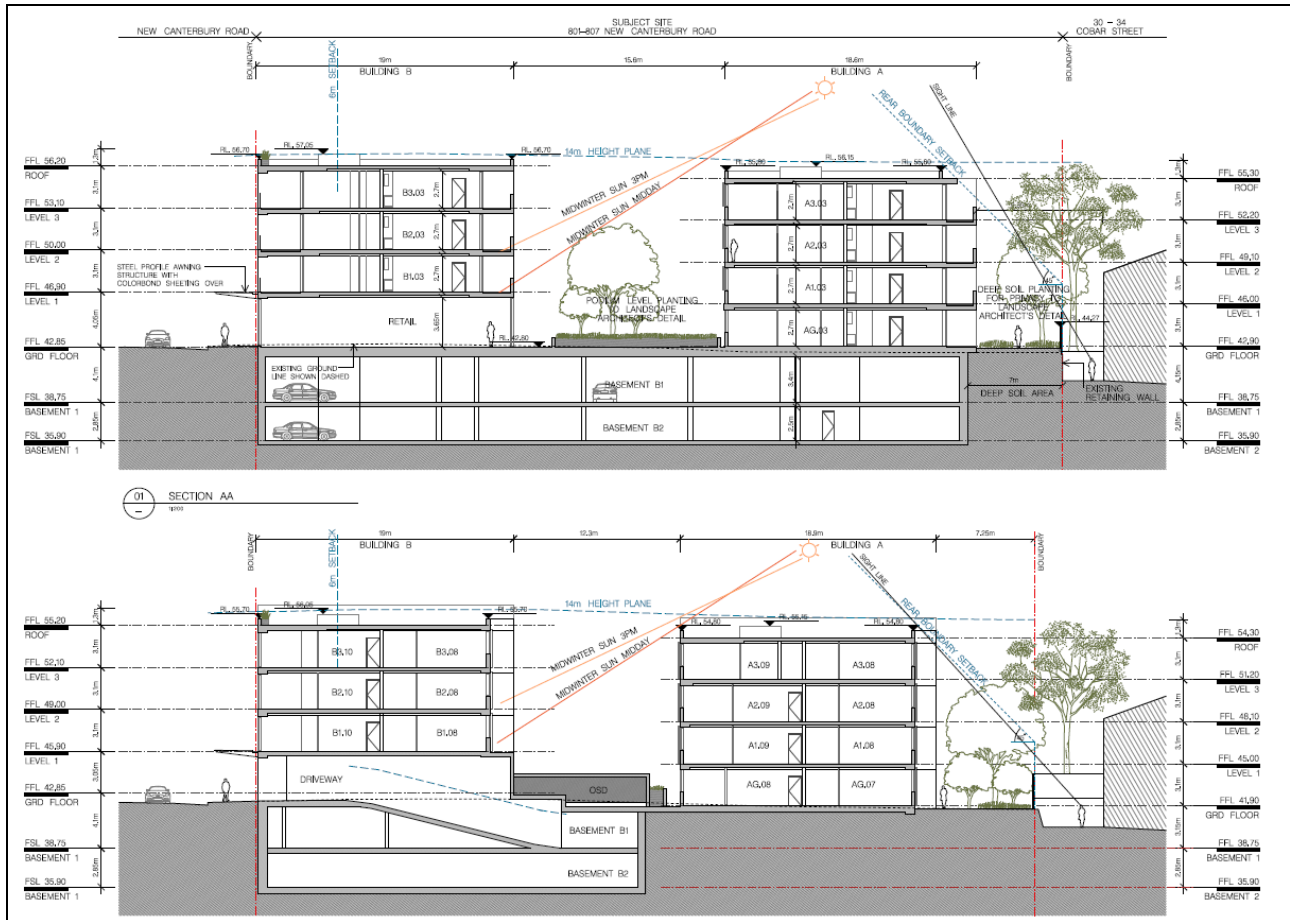


Image 8: Section A and Section B

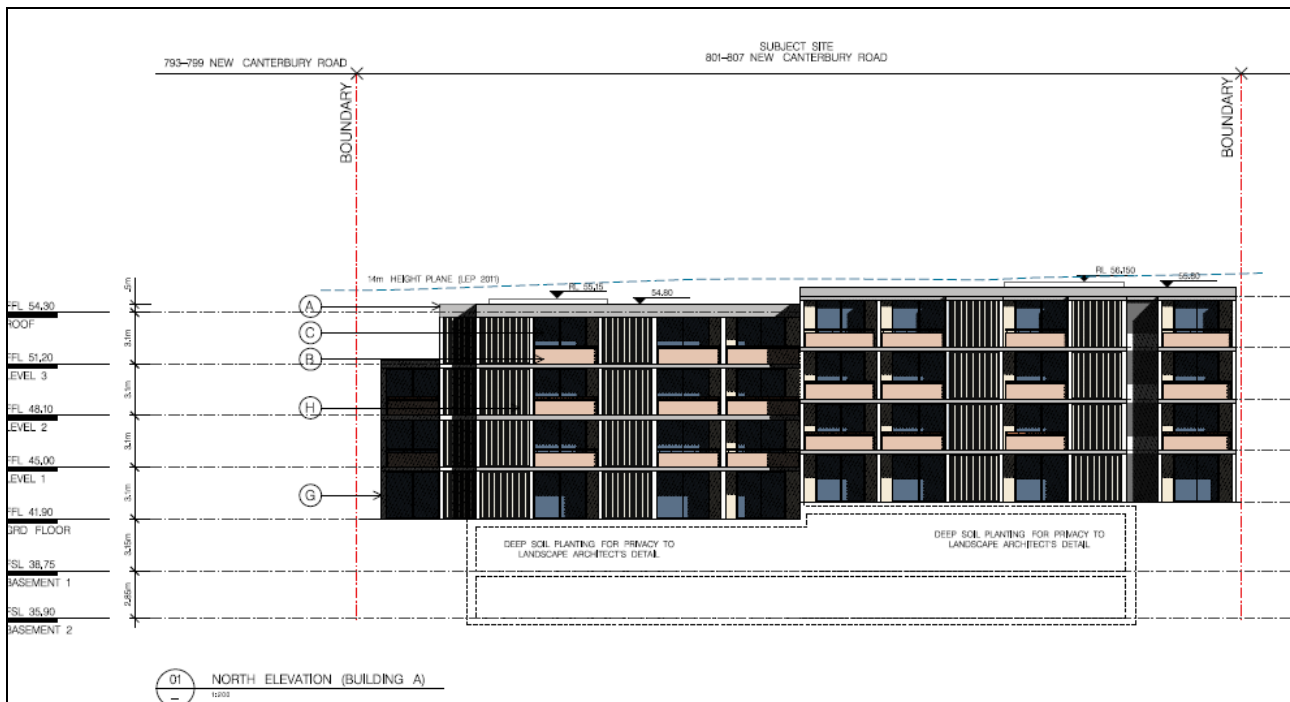


Image 9: North Elevation Building B



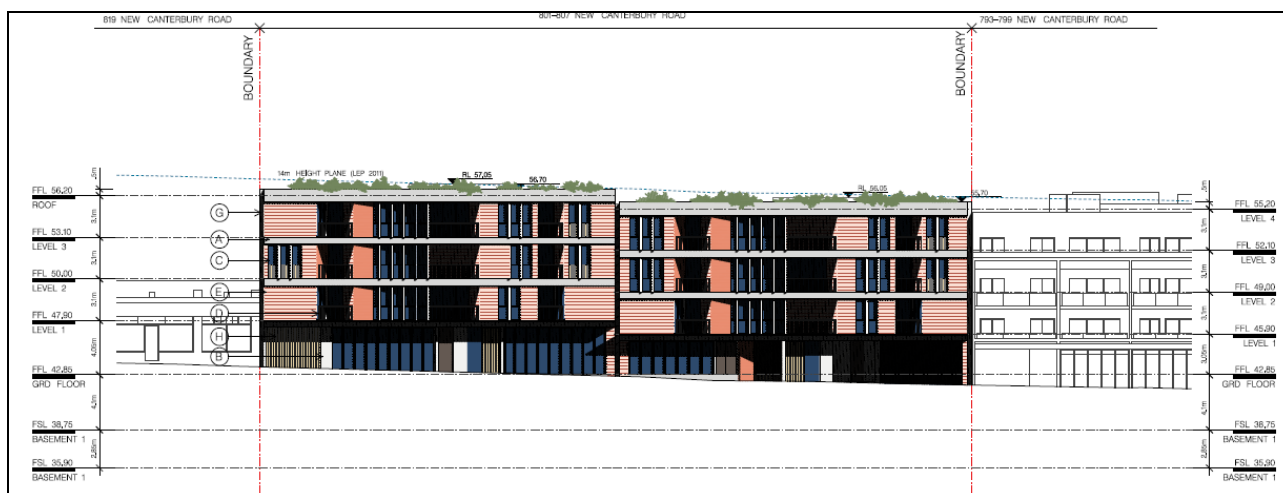


Image 12: South Elevation Building B (New Canterbury Road)

3. Planning Assessment

Below is an assessment of the amended plans and additional information submitted in response to the resolution of the JRPP at its meeting on 24 April 2015. The amended proposal has been assessed against the relevant planning controls.

The amended plans have deleted the entire 5th floor from both buildings and retained the same quantum of parking as per the DA previously considered by the JRPP. There were no other changes made to the plans.

a) SEPP 65 – Design Quality of Residential Flat Buildings

The revised proposal has been assessed under SEPP 65 and the Residential Flat Design Code (RFDC). 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.

(i) Building Separation

Under the RFDC, the following minimum building separation requirements are recommended for residential flat developments with 4 storeys:

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms/Balconies to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Both Building A and Building B are proposed to be 4 storey buildings in height. The internal courtyard maintains a minimum setback between Building A and Building B of 12.3 metres. The development complies with the numerical separation requirements under the RFDC, and the separation 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.

(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 now contains 67 dwellings, being a mixture of studios, 1, 2 and 3 bedroom dwellings with varying sizes for each dwelling type.

The amended plans propose to remove the upper most floor (level 4) within the development. This floor contained a number of undersized 2 and 3 bedroom cross through apartments. No change has been made to the internal layout of the apartments on any of the other residential floors within the development. Removal of the upper floor has resulted in approximately 59% of the proposed apartments not meeting the minimum internal area required under the RFDC. The original development proposed 60% of the apartments which did not comply with the RFDC. It is noted that all the apartments meet the rule of thumb minimum size requirements. 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.

b) 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 amended 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.

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

An amended 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.

d) State Environmental Planning Policy (State and Regional Development) 2011

The original 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. The amended proposal has a capital investment value is \$18,565,000. Despite this, the application remains a JRPP application given that the original figure was greater than \$20 million.

e) Marrickville Local Environmental Plan 2011

(i) Height (Clause 4.3)

A maximum building height of 14 metres applies to the property under MLEP 2011. The original design had a maximum building height of 17.04 metres. The amended design has resulted in the reduction in the number of floors of Building A and Building B from 5 to 4 storeys. The amended development has a maximum building height of 14 metres which complies with the height development standard.

(ii) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1.75:1 applies to the land under MLEP 2011.

The original development proposed a total gross floor area (GFA) of 7,214sqm which equated to a FSR of 2.35:1 (34% non-compliance). The excess FSR was 1,841sqm.

The amended development has a gross floor area (GFA) of 6,240sqm which equates to a FSR of 2.03:1 on the 3,070sqm site which remains non-compliant with the FSR development standard. However, it is noted that the amended design has resulted in a reduction in GFA of 1,004sqm from the original design.

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 later in this report under the heading "Exceptions to Development Standards (Clause 4.6)".

(iii) Exceptions to Development Standards (Clause 4.6)

As detailed earlier in this report, the amended development exceeds the maximum floor space ratio development standard prescribed under Clause 4.4 of MLEP 2011. An updated written request in relation to the contravention to the FSR development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 was submitted with the amended proposal. An amended Clause 4.6 variation dealing with matters raised in the *Four2Five v Ashfield Council* decisions is attached as Attachment 2.

The amended development has an FSR of 2.03:1, representing a 16% variation or 867sqm from the development standard of 1.75:1. The amended design has resulted in a reduction in GFA of 1,004sqm.

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

- The mixed retail and residential development is an appropriate use of the site and envisaged by the zoning;
- The proposal complies with the maximum height development standard contained within the MLEP 2011;
- There is a disconnect between the building height and the FSR controls as they relate to mixed use development in the B2 zone such that the 14 metre building height control

envisages a 4 storey development while the FSR control effectively restricts the development to less than 4 storeys;

- The scale relationship of a complying development would not be in keeping with the emerging or desired future character of the area;
- 319sqm of the 867sqm exceedance of GFA is within the Basement Level 1 and consequently will not result in any bulk and scale or visual impacts;
- The objective of providing an appropriate correlation between FSR and height is thwarted if the FSR of 1.75:1 is maintained as it would result in a predominately 3 storey form and would compromise the resultant built form outcome.
- There are examples of approved development that exceed the FSR development standard however it is not abandoned;
- There are sufficient environmental planning grounds to justify contravening the development standard in this case given that:
 - There is a disconnect between the FSR development standard the 14 metre building height which will inevitably be exceeded;
 - 21 car parking spaces of the non-compliance is below ground;
 - The West Dulwich Hill area did not undergo a detailed urban design or strategic analysis, although in a Council report Council states that there is merit in increasing the density in the locality; and
 - The visual catchment of New Canterbury Road contains new buildings and built form controls which present a greater bulk and scale and has a significant and demonstrable influence on shaping the urban character of the locality overall and cannot be viewed in isolation.
- The proposal meets the objectives of the B2 Local Centre zone in that:
 - The proposal will incorporate 3 new retail tenancies being 600sqm of retail space that will provide opportunities for local businesses that will activate the street frontage;
 - The proposal will provide employment opportunities in a local that is accessible by walking, cycling and public transport. The site is within 690 metres of Hurlstone Park railway station and Dulwich Grove light rail station and established bus routes;
 - The proposal seeks to provide housing attached to retail uses. The scale is commensurate with the overarching strategic aims of the locality, its geographical location and position in the centres hierarchy; and
 - The configuration of the retail floor space has been designed to be flexible to allow a variety spaces and uses.
- There is public benefit in maintaining standards however there is public interest in maintaining a degree of flexibility in specific circumstances. In the current case, strict compliance with the FSR standard would result in a development that would not be compatible with the existing emerging and desired future urban form and character of the area.

In light of the above, the applicant asserts that the proposal is consistent with the underlying objectives of the FSR development standard and the B2 Local Centre zone and satisfies the relevant principles outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90.

The Clause 4.6 submission is considered to be well founded and worthy of support for the following reasons:

- It is agreed that the proposal is consistent with the underlying objectives of the FSR development standard and the B2 Local Centre zone for the reasons outlined above;
- A proportion of the proposed variation (37%) is generated by additional car parking that addresses community concerns about the number of car parking spaces. The additional parking is provided below ground and as such does not increase the bulk of the building or cause amenity impacts;

- Despite the FSR development standard non-compliance, the development will not result in any unreasonable amenity impacts of overshadowing or loss of privacy. As stated in the original assessment report considered on 10 September 2015, most of the overshadowing will occur to the south of the site on New Canterbury Road and full length privacy screening has been provided on window openings where appropriate to maintain privacy;
- Despite removal of the upper most floor, the development remains one of design excellence and responds positively to its context within New Canterbury Road; and
- Given the above, it is unreasonable and unnecessary to maintain the development standard in this case.

Given the above, 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.

f) 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 between 31 July 2014 and 6 October 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 amended development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

g) Marrickville Development Control Plan 2011

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

The amended development requires the provision of 14 adaptable dwellings in accordance with the requirements of MDCP 2011. The amended development provides 14 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.

(ii) Solar Access and Overshadowing (Part 2.7)

The amended shadow diagrams submitted with the application illustrate that the extent of overshadowing from the amended proposal is reduced when compared with the original proposal and is considered to be satisfactory with regard to Part 2.7 of MDCP 2011.

(iii) 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 Parking	Car	0.4 car parking space per studio	6 studio units = 2.4 spaces	89 spaces (including 7 tandem spaces and 14 accessible spaces)	No (oversupply of 22 spaces – conditioned to provide an additional visitor parking space, leading to an
		0.5 car parking spaces per 1 bedroom unit	22 x 1 bed units = 11 spaces		
		1 car parking space per 2 bedroom unit	37 x 2 bed unit = 37 spaces		
		1.3 car parking spaces	2 x 3 bed unit		

Component	Control	Required	Proposed	Complies?
	per 3 bedroom unit	= 2.6 spaces		oversupply of 21 spaces)
	1 car parking space per 1 adaptable dwelling	14 accessible spaces		
TOTAL:		67 spaces including 14 accessible		
Visitor Parking				
Visitor Car Parking	0.1 car parking space per unit	67 units = 7 spaces	10 visitor spaces (including 4 accessible visitor spaces)	No (1 space short fall – conditioned to comply)
	1 accessible visitor's car parking space per 4 accessible car parking spaces	4 accessible space		
TOTAL		11 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		87 spaces	108 spaces	No (21 excess parking spaces)
Bicycle Parking				
Resident Bicycle Parking	1 bicycle parking space per 2 units	67 units = 34 spaces	48 spaces	Yes
Visitor Bicycle Parking	1 bicycle parking space per 10 units	67 units = 7 spaces		
Commercial Bicycle Parking - Staff	1 bicycle parking space per 300sqm GFA	600sqm GFA = 2 spaces		
TOTAL		43 spaces		
Motorcycle Parking				
Motorcycle Parking	5% of the total car parking requirement	53 car parking spaces required = 3 spaces	4 space	Yes
TOTAL		4 spaces		

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

As detailed above, the development complies with the car, bicycle and motorcycle parking requirements with the exception of visitor spaces. Given the minor variation the parking non-compliance has been conditioned to ensure compliance with the controls. Overall, the development proposes 108 car parking spaces remains unchanged from the original application. The originally submitted traffic report, Roads and Maritime Services (RMS) and Council's Pedestrian, Cyclist and Traffic Calming Committee raised no objection to the number of car parking spaces and the current provision of car parking spaces which remain unchanged is considered to be acceptable in this instance.

(iv) Massing and Setbacks (Part 5.1.3.3)

Part 5.1.3.3 requires the street front portion of the building mass in the front 6 metres must have a maximum height of 12 metres and contain a maximum three storeys. The proposal has a nil front setback to New Canterbury Road for all 4 stories with a maximum height of 14 metres. Despite the

fact that the proposal varies from the control, the variation is supported given the high architectural merit of the proposal and its contribution to the streetscape. In addition, it is acknowledged that recent development on the southern side of New Canterbury Road within the Canterbury Council LGA has resulted in significant height on the New Canterbury Road frontage that is greater than 3 metres.

(v) Dwelling mix (Part 5.1.5.2)

The residential component of the development includes 6 x studio dwellings (9%), 22 x 1 bedroom dwellings (33%), 37 x 2 bedroom dwellings (55%) and 2 x 3 bedroom dwellings (3%). The development does not comply with the unit mix requirements which requires at least 10% of the unit mix to contain 3 bedrooms or larger.

Having regard to the local area, the development is considered to provide a suitable dwelling mix to meet the demand for the local demographics. The development includes an appropriate mix of studio, 1 bedroom, 2 bedroom and 3 dwellings and is not considered to saturate the supply of any one form of dwelling type for the local area and is not considered to warrant refusal of the application.

4. 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 \$1,114,226.39 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014, however, the applicant has offered to enter into a Voluntary Planning Agreement (VPA) in lieu of Section 94.

The VPA seeks to provide an amount equivalent to what would be calculated under Section 94 plus an amount per m² based on the excess floor area above 1.75:1.

5. Conclusion

The amended application seeks consent to demolish the existing improvements and construct a 4 storey development consisting of a residential flat building (Building A) containing 37 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 30 dwellings with 2 levels of basement car parking accommodating 108 car parking spaces. 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 amended proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

PART E - RECOMMENDATION

- A. THAT** the development application to demolish the existing improvements and construct a 4 storey development consisting of a residential flat building (Building A) containing 37 dwellings and a mixed use building (Building B) containing 3 retail tenancies and 30 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 J	Basement Floor Plan B2	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1102, Issue J	Basement Floor Plan B1	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1103, Issue J	Ground Floor Plan	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1104, Issue J	Level 1 Floor Plan	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1105, Issue J	Level 2 Floor Plan	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1106, Issue J	Level 3 Floor Plan	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1108, Issue J	Roof Plan	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1201, Issue J	Section A & B	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1301, Issue J	North Elevation Building A	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1302, Issue J	South Elevation Building A	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-	North Elevation Building B	18 September 2015	Candalepas Associates	24 September 2015

1303, Issue J				
Job No. 5729, Dwg No. DA-1304, Issue J	South Elevation Building B	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1305, Issue J	Elevations East & West	18 September 2015	Candalepas Associates	24 September 2015
Job No. 5729, Dwg No. DA-1401, Issue J	Adaptable Unit Plans	18 September 2015	Candalepas Associates	24 September 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_00 2	Landscape Site Plan	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_00 3	Landscape Plan - North	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_00 4	Landscape Plan - South	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_00 5	Landscape Solutions	22 April 2015	ASPECT Studios	7 May 2015
14060_LA_00 6	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	1 May 2015	Jones Nicholson	7 May 2015

	Details		Consulting Engineers	
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
2684R201502 13-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	13 October 2015	Dean Gorman	14 October 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_03	BASIX Certificate	13 October 2015	NSW Department of Planning and Environment	14 October 2015
	BCA report (Part 3	24 February	Vic Lilli and	3 March 2015

J150036	Statement Of Compliance And Annexure A Detailed Assessment of The Deemed-To-Satisfy Provisions Of The Building Code Of Australia)	2015	Partners	
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 21 August 2015, 24 September 2015 and 14 October 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 J dated 18 September 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 14 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 74 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) 14 accessible car parking spaces, 1 accessible car space per adaptable dwelling;
- c) 11 visitor car parking spaces, 4 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;
- 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
 - 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 Conveyancing Act 1919 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.

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

- Useful Contacts

BASIX Information ☎ 1300 650 908 weekdays 2:00pm - 5:00pm
www.basix.nsw.gov.au

Department of Fair Trading ☎ 13 32 20
www.fairtrading.nsw.gov.au
 Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Before You Dig ☎ 1100
www.dialbeforeyoudig.com.au

Landcom ☎ 9841 8660
 To purchase copies of Volume One of “Soils and Construction”

Long Service Payments Corporation ☎ 131441
www.lspc.nsw.gov.au

Marrickville Council ☎ 9335 2222
www.marrickville.nsw.gov.au
 Copies of all Council documents and application forms can be found on the web site.

NSW Food Authority ☎ 1300 552 406
www.foodnotify.nsw.gov.au

NSW Government
www.nsw.gov.au/fibro
www.diysafe.nsw.gov.au
 Information on asbestos and safe work practices.

NSW Office of Environment and Heritage ☎ 131 555
www.environment.nsw.gov.au

Sydney Water ☎ 13 20 92
www.sydneywater.com.au

Waste Service - SITA ☎ 1300 651 116
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** 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 Council has agreed to the variation of the following development standard:

<u>Premises:</u>	801 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>	Deferred Commencement Consent
<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 4.4 – Floor space ratio
<u>Justification of variation:</u>	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>	16%
<u>Concurring Authority:</u>	JRPP under assumed concurrence of the Secretary Department of Planning and Environment
<u>Date of Determination:</u>	

**ATTACHMENT 1 – PLANNING ASSESSMENT REPORT CONSIDERED BY JRPP ON 10
SEPTEMBER 2015**

ATTACHMENT 2 – AMENDED CLAUSE 4.6 ASSESSMENT PROVIDED BY THE APPLICANT