

ITEM **JRPP PLANNING REPORT(2015SYE056)-DEMOLITION OF ALL STRUCTURES & CONSTRUCTION OF MIXED USE BUILDING UP TO 6 STOREYS, CONTAINING 164 DWELLINGS, GROUND FLOOR COMMERCIAL TENANCIES & 319 BASEMENT CAR PARKING SPACES-DA2015/0105 - 77-105 VICTORIA ROAD DRUMMOYNE**

Department **Planning and Environment**

Author Initials: PG

EXECUTIVE SUMMARY

Owner

Australian Executor Trustees Ltd

Applicant

EG Funds Management Pty Ltd

Zoning

This property is zoned *B4 Mixed use* which permits *commercial premises* and *residential flat building*.

Proposal

Demolition of all structures and construction of a mixed use building up to six storeys, containing 164 dwellings, ground floor commercial tenancies and basement parking for 319 car spaces

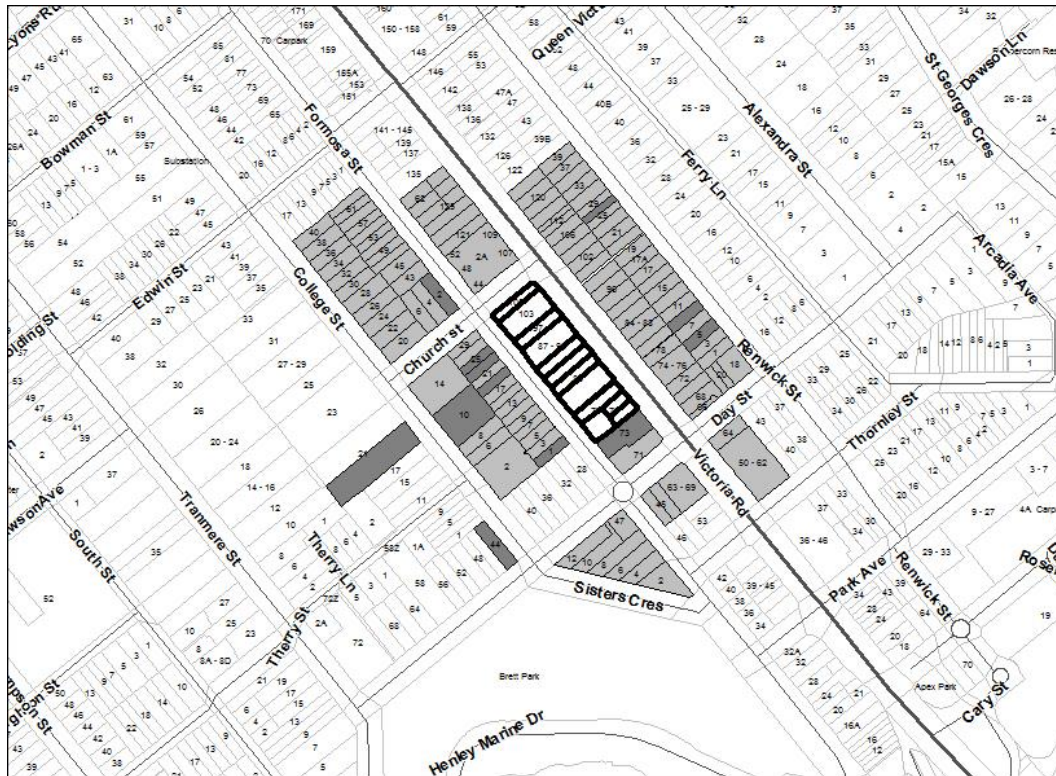
Issues, including those matters raised by objectors


Traffic & Parking, Density, Privacy, Heritage, Noise, Building Height, Commercial use, View Loss, Overshadowing, Access to Breezes, Stormwater Management, Street Trees, Footpath Awning, Graphic Wall Art, Leasing Apartments

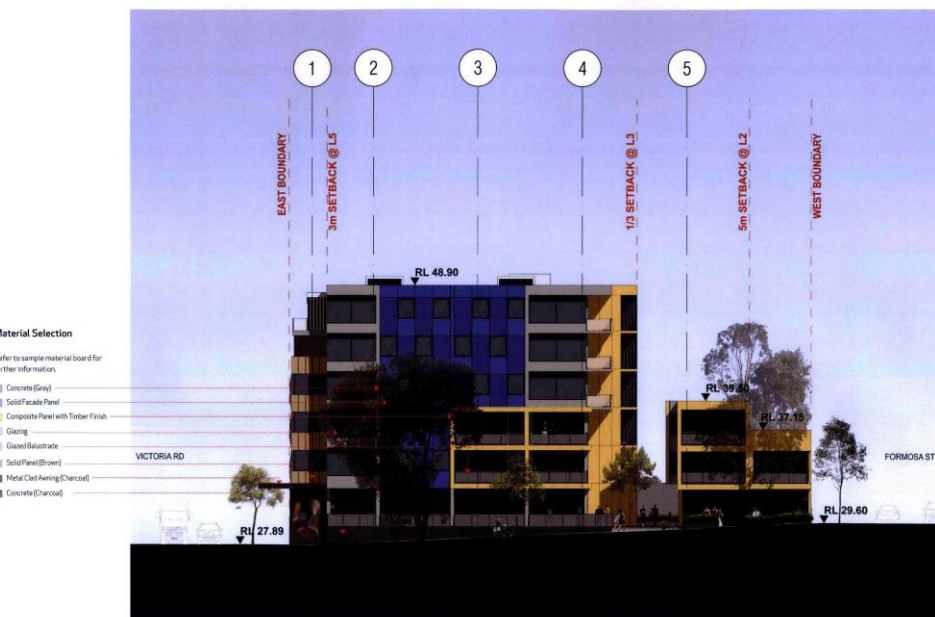
Value of development

\$55,125,475

Location



<i>Subject Site</i>		<i>Properties Notified</i>		<i>Submitters</i>		 North
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Scale 0 5 10 15

Revisions		
01	20.08.15	DEVELOPMENT APPLICATION
02	10.08.15	DEVELOPMENT APPLICATION
		(SUBMITTED TO COUNCIL COMMENTS)

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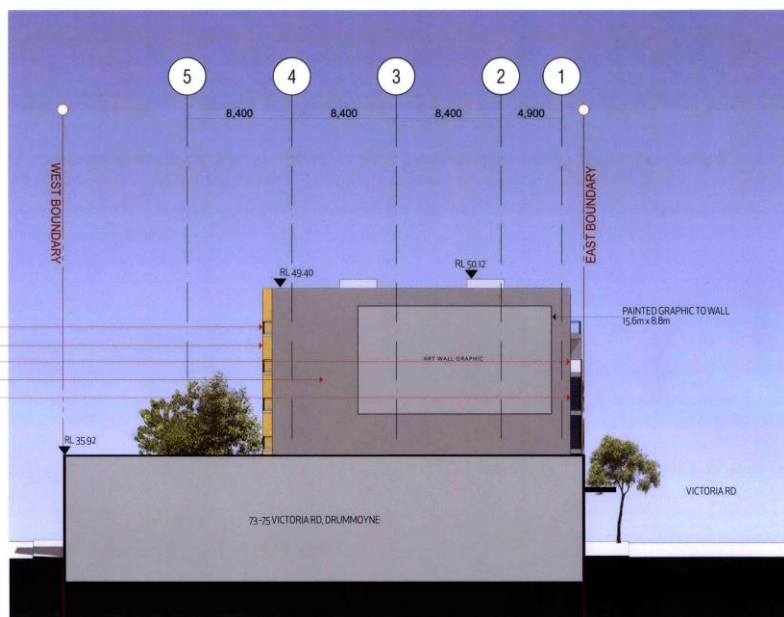
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Material Selection

Refer to sample material board for further information.

- Composite Panel with Timber Finish
- Glazed Bricks (Blue)
- Glazing
- Glazed Balustrade
- Concrete (White)
- Concrete (Grey)



Material Selection

Refer to sample material board for further information.

- Glazed Balustrade
- Composite Panel with Timber Finish
- Concrete (Cream)
- Concrete (Grey)
- Glazing

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BOUNDARY ELEVATION

DEVELOPMENT APPLICATION

DA 6.1

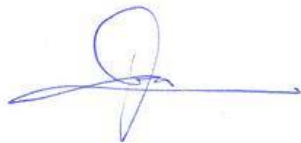
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RECOMMENDATION

Pursuant to Sections 80 of the Environmental Planning and Assessment Act 1979 (as amended)

- A. THAT the Sydney East Joint Regional Planning Panel (JRPP), assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 and resolve that in the circumstance of the case a strict application of the statutory standards contained in clause 4.3 (Height of buildings) in the Canada Bay Local Environmental Plan 2013 is unnecessary and unreasonable.
- B. THAT the Sydney East Joint Regional Planning Panel, as determining authority, approve Development Application No. 2015/0105 (JRPP ref. 2015SYE056) for Demolition of all structures and construction of a mixed use building up to six storeys, containing 164 dwellings, ground floor commercial tenancies and basement parking for 319 car spaces on land at 77-79 Victoria Road DRUMMOYNE NSW 2047 subject to the following site specific conditions. In granting consent Joint Regional Planning Panel - East has regard to the merit considerations carried out in the assessment report and pursuant to s.79C of the Environmental Planning and Assessment Act. On consideration of the merits of the case Joint Regional Planning Panel - East acknowledges the areas of non-compliance arising from the application but notes that it supports the application based on the particular circumstances of the case and does not consider that the consent gives rise to a precedent.

Prepared by:



Peter Giaprakas
Senior Statutory Planner
Canada Bay Council

Approved by:



Tony McNamara
Director
Canada Bay Council

Endorsed by:



Narelle Butler
Manager
Canada Bay Council

CONDITIONS OF CONSENT

General Conditions

1. **DAGCA01 - Approved Plans and Supporting Documents**

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<i>Reference/Dwg No</i>	<i>Title/Description</i>	<i>Prepared By</i>	<i>Date/s</i>
Job No. 14005, Drawing No. DA 4.1 (revision 04, revised 25/01/2016)	Ground Floor Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.2 (revision 04, revised 25/01/2016)	Basement Plan Level 1	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.3 (revision 03, revised 25/01/2016)	Basement Plan Level 2	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.4 (revision 02, revised 10/09/2015)	Level 1 Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.5 (revision 02, revised 10/09/2015)	Level 2 Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.6 (revision 02, revised 10/09/2015)	Level 3 Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.7 (revision 02, revised 10/09/2015)	Level 4 Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.8 (revision 02, revised 10/09/2015)	Level 5 Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016

Job No. 14005, Drawing No. DA 4.9 (revision 02, revised 10/09/2015)	Roof Plan	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.10 (revision 02, revised 10/09/2015)	Victoria Rd Elevation	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.11 (revision 02, revised 10/09/2015)	Church St Elevation	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.12 (revision 02, revised 10/09/2015)	Formosa St Elevation	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.13 (revision 02, revised 10/09/2015)	Boundary Elevation	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.14 (revision 02, revised 10/09/2015)	Victoria Road Massing	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.15 (revision 02, revised 10/09/2015)	Section Markers	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.16 (revision 03, revised 20/10/2015)	Section Page 1	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.17 (revision 02, revised 10/09/2015)	Section Page 2	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.18 (revision 02, revised 10/09/2015)	Section Page 3	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA	Section Page 4	Fender Katsalidis Mirams (Sydney)	Plot date 25/01/2016

4.19 (revision 02, revised 10/09/2015)		Architecture	
Job No. 14005, Drawing No. DA 4.20 (revision 02, revised 10/09/2015)	Section Page 5	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.21 (revision 02, revised 10/09/2015)	Section Page 6	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.22 (revision 03, revised 20/10/2015)	Section Page 7	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.23 (revision 02, revised 10/09/2015)	Section Page 8	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.24 (revision 02, revised 10/09/2015)	Section Page 9	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 4.25 (revision 02, revised 10/09/2015)	Section Page 10	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 5.2 (revision 02, revised 10/09/2015)	Church Street Perspective	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 5.3 (revision 02, revised 10/09/2015)	Formosa Street Perspective	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 5.1 (revision 02, revised 10/09/2015)	Victoria Road Perspective	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.1 (revision 04, revised 10/09/2015)	GFA Calculation	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016

25/01/2015)			
Job No. 14005, Drawing No. DA 7.2 (revision 02, revised 10/09/2015)	Area Schedule	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.3 (revision 02, revised 10/09/2015)	Height Plane Analysis	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.4 (revision 01, revised 09/11/2015)	Façade Section	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.5 (revision 01, revised 09/11/2015)	Cross Ventilation Diagrams	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.6 (revision 02, revised 10/09/2015)	ESD Diagrams	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.7 (revision 02, revised 10/09/2015)	ESD Diagrams	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.8 (revision 02, revised 10/09/2015)	ESD Diagrams	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.10 (revision 02, revised 10/09/2015)	Adaptable Apartments	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.11 (revision 02, revised 10/09/2015)	Adaptable Apartment	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
Job No. 14005, Drawing No. DA 7.12 (revision 02, revised 10/09/2015)	Compliance Summary	Fender Katsalidis Mirams (Sydney) Architecture	Plot date 25/01/2016
OC - L - 001	Landscape	Oculus Landscape	26/02/2015

	Concept Plan Overall Plan	Architecture	
OC - L - 002	Landscape Concept Plan Ground Floor	Oculus Landscape Architecture	26/02/2015
No ref.	Landscape Design Report	Oculus Landscape Architecture	February 2015
No ref.	Material Sample Board	Fender Katsalidis Mirams Architects	No date
# 605290M	BASIX Certificate	Victor Lin & Associates Pty Ltd	25/03/2015
Project No. 25439, Drawing No's H2001 (revision 5) H0001 (revision 3) H2002 to H2007 (revision 3)	Stormwater Plans	Waterman Australia	23/10/2015 and 15/01/2016
Job No. 20685- 002 - H - 101 - P - 03	Hydraulic Services Basement Level 1 Plan	EWFW Hydraulics-Fire- Environmental	27/01/2016
Job No. 20685- 002 - H - 102 - P - 03	Hydraulic Services Outlet Pipe Longsection	EWFW Hydraulics-Fire- Environmental	27/01/2016
9644	Traffic and Parking Report	Colston Budd Hunt & Kafes Pty Ltd	March 2015
SK/9644/jj	Traffic and Parking Letter in Response to Matters Raised by Council	Colston Budd Hunt & Kafes Pty Ltd	09/09/2015
Job No. 20685- 002 - H - 101 - P - 04	Hydraulic Services Basement Level 1 Plan	EWFW Hydraulic-Fire- Environmental	24/10/2011 Revised 27/01/2016
Job No. 20685- 002 - H - 101 - P - 03	Hydraulic Services Outlet Pipe Longsection and OSD Tank Floor	EWFW Hydraulic-Fire- Environmental	24/10/2011 Revised 27/01/2016
TH168-01F02 Acoustic Report for DA (R2).DOCX	Acoustic Assessment	Renzo Tonin	13/02/2015
7385_3.1_Cl.4.6 Variation_HOB	Clause 4.6 - Exemptions to	SJB Planning	No date

	development standards - Height of buildings		
No Ref.	Retail Strategy	Bonnefin Property	02/12/2014
Pages 1 to 36	Waste Management Plan	Elephants Foot	21/08/2015

Note 1: *Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.*

Note 2: *A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.*

Note 3: *The approved plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).*

(Reason: To confirm and clarify the terms of consent)

2. **DAGCA03 - Construction within Boundary**

All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.

(Reason: To ensure compliance with approved plans)

3. **DAGCA06 - Separate Approvals**

Separate Development Approval shall be obtained for each commercial tenancy included in the approved development.

(Reason: To control the future development of the site)

4. **DAGCA08 - Art Wall Graphic**

Details of the final artwork to be painted/applied to the designated Art Wall Graphic area, as indicated on the approved drawing No. DA 4.13 (revision 2) prepared by Fender Katsalidis Mirams (Sydney) Architects, must be provided for Council approval **prior to the issue of any Construction Certificate.**

The wall graphic must not include anything of an advertising nature and must be designed by a suitably qualified arts practitioner. Details of the selected artist and their curriculum vitae shall also be included with the information.

(Reason: Information and visual amenity)

5. **DAGCA09 - Roads and Maritime Requirements**

1. Roads and Maritime has previously acquired a strip of land for road along the Victoria Road frontage of the subject property, as shown by blue colour on the attached Aerial - "X".

Roads and Maritime has previously vested a strip of land as road along the Victoria Road frontage of the subject property, as shown by grey colour on the attached Aerial- "X".

Therefore, all buildings and structures (other than standard pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Victoria Road boundary.



2. The redundant driveways on the Victoria Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Victoria Road shall be in accordance Roads and Maritime

requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

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

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

4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

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

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

Telephone 8849 2114
Fax 8849 2766

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

5. The proposed development should be designed such that road traffic noise from Victoria Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.

6. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
7. A Road Occupancy licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities.
8. All demolition and construction vehicles are to be contained wholly within the site. A construction zone will not be permitted on Victoria Road.

(Reason: Compliance and Street Management)

6. **DAGCA10 - Environmental - Contamination - Special Conditions**

a) **Contaminated Land Unexpected Finds**

In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.

The contaminated land situation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by City of Canada Bay, Manager Health, Building and Environment.

Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.

b) **Site Audit Statement**

Prior to the issue of a Construction Certificate a section A Site Audit Statement (SAS) is to be obtained from a NSW EPA Accredited Site Auditor and submitted to Council. The SAS must confirm that the site has been remediated in accordance with the approved Remediation Action Plan and clearly state that site is suitable for the proposed use. Conditions on the Site Audit Statement shall form of the consent.

- i. Where the SAS is subject to conditions that require ongoing review by the Auditor or Council these should be reviewed and approved by Council before the SAS is issued. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a S96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.
- ii. A Construction Certificate must not be issued by the PCA unless a Site Audit Statement has been submitted to the Council in accordance with this condition.

c) **Site Validation**

Prior to the issue of a Construction Certificate, on completion of the remedial works, a Site Validation Report is to be forwarded to Council for approval. The validation report is to be prepared by a suitably qualified environmental consultant with experience in land contamination in New South Wales, EPA contaminated

land legislation and guidelines including the Contaminated Land Management Act. The report is to be satisfactorily documenting the following:

- i. The extent of validation sampling, and the results of the validation testing,
- ii. That the remediation and validation of the site has been undertaken in accordance with Remedial Action Plan, prepared by DLA Environmental Services, dated September 2015, reference DL3611_S003395.
- iii. That the site is suitable for the proposed use.
- iv. The Validation Report must be submitted for review by a NSW EPA accredited site auditor prior to the commencement of construction and the issue of a construction certificate

d) Remediation

Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with:

- i. Remedial Action Plan, prepared by DLA Environmental Services dated September 2015 reference DL3611_S003395 and
- ii. Council's Contaminated Land Policy, and
- iii. State Environmental Planning Policy No. 55 - Remediation of Land and
- iv. The guidelines in force under the Contaminated Land Management Act.
- v. The applicant must engage an appropriately qualified and experienced supervising environmental consultant to supervise all aspects of site remediation and validation. The environmental consultant must supervise all aspects of the remediation works in accordance with the approved Remedial Action Plan.

Note: An appropriately qualified and experienced environmental consultant should be certified by one of the following certification schemes; or equivalent:

- i. The EIANZ Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme.
- ii. Site Contamination Practitioners Australia - Certified Practitioner (SCPA)

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the City of Canada Bay Council in writing and the Principal Certifying Authority.

Any variations to the approved Remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

e) Underground Storage Tanks

The UPSS (Underground Petroleum Storage System) must comply with all applicable legislation, guidelines and codes of best practice, including:

- NSW Protection of the Environment Operations Act 1997
- NSW Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014
- NSW Workcover Code of Practice: Storage and Handling of Dangerous Goods

- AS4897-2008 - Design, installation and operation of underground petroleum storage systems
- AS1940-2004 - The Storage and Handling of Flammable and Combustible Liquids

An Environment Protection Plan (including procedures for early leak detection and rectification and loss monitoring procedures) must be in place prior to use of the UPSS and maintained/updated throughout the life of the UPSS.

The UPSS can only be commissioned once all of the following requirements - and those specified under Part 2 of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014) have been met:

- i. The UPSS must be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation.
- ii. The UPSS must have minimum mandatory pollution protection equipment installed, consistent with the Regulation.
- iii. The UPSS must have groundwater monitoring wells installed in accordance with the Regulation.
- iv. The UPSS must have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.

The UPSS must have groundwater monitoring wells designed and installed by a duly qualified person in accordance with relevant industry standards. The duly qualified person must provide details of specifications relevant to the design and installation of the wells to the person responsible for a system.

- v. Groundwater monitoring wells must be:
 - a) Sealed to exclude surface water;
 - b) Constructed to prevent cross-contamination with other groundwater monitoring wells; and
 - c) Clearly marked to indicate their presence and properly secured.

If leak and repair work is undertaken to the UPSS, the system cannot be recommissioned unless it satisfies the requirements outlined in the UPSS Regulation.

The UPSS or related activities shall not constitute a nuisance in relation to noise, air or water pollution as specified under the Protection of the Environment Operations Act 1997.

Removal of Underground Storage Tanks

The existing underground storage tanks are to be decommissioned and removed by a Duly Qualified Person, in accordance with, but not limited to:

- The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014.
- AS 1940 - 2004 The Storage and Handling of Flammable and Combustible Liquids.
- AS 4976-2008 The removal and disposal of underground petroleum storage

tanks.

- Work Health & Safety Act 2011 and Work Health & Safety Regulation 2011.
- WorkCover NSW requirements.

Note 1: Any work involving underground fuel tanks and piping is potentially dangerous and must be carried out by an experienced person in accordance with safety and work permit procedures. Further to this, WorkCover NSW requires notification of the abandonment or removal of underground fuel tanks. For further information contact WorkCover NSW, ph13 10 50 or workcover.nsw.gov.au

Note 2: A 'Duly Qualified Person' is a competent person with relevant experience in the removal and abandonment of underground fuel tanks as required by the UPSS Regulation 2008, and must be drawn from an environmental consultancy that is a member of the "Australian Convenience & Petrol Marketers Association" (ACAPMA) - Equipment and Services Council, or equivalent.

Note 3: The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014 requires the Validation Report to be submitted to City of Canada Bay within 60 days of the removal of the underground fuel tanks.

f) Dust and Water Pollution Control

The following measures must be taken to control the emission of dust:

- i. Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- ii. All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- iii. All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- iv. All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- v. All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- vi. All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

g) Excavation Pump-out

All excavation pump-out water must be analysed for suspended solid concentrations, pH and any contaminants of concern identified during a preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results of any discharge must comply with relevant EPA and ANZECC standards for water quality and be made available to Council upon request. Any water to be discharged to Council's stormwater system shall not contain a concentration of suspended sediment exceeding 50mg/L, shall have a pH of between 6.5-8.0 and shall comply with the ANZECC Guidelines for Marine and Freshwater Quality for Protection of Aquatic Ecosystems (95% protection level for freshwater ecosystems); NSW Department of Housing, Managing Urban Stormwater - Soils and Construction).

Water testing shall be carried out to ensure water is appropriate for discharge to the stormwater system. This testing shall be undertaken by a suitably qualified environmental scientist. Water that does not comply with the above standards shall not be discharged to the stormwater system, and shall be disposed of using alternative appropriate means.

Results of water testing (if required) shall be provided to Council or in the Validation Report for remediation projects as required by the conditions of this consent. Documentation for the off-site disposal of water shall be included in the Validation Report.

Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

h) Fill Material

Imported Fills

All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall 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:

- i. 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
- ii. Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.
- iii. Any fill material that is imported onto the site must be analysed and classified by an appropriately qualified and experienced environmental consultant in accordance with relevant NSW EPA guidelines, including the “Waste Classification Guidelines” 2014.

To ensure that fill material is suitable for the proposed [use], only material classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM) is permitted to be imported onsite.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

Classification of waste

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014). Testing is required

prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

Note: Attention is drawn to Part 4 of the NSW DECC Waste Classification Guidelines (2014) which makes particular reference to the management and disposal of Acid & Potential Acid Sulfate Soils. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Evidence that the requirements specified above have been satisfied must be provided to the Principle Certifying Authority **prior to the issue of an Occupation Certificate**. Where an Occupation Certificate is not required this evidence must be provided to the satisfaction of Council's Manager Health, Building & Environment.

(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)

7. **DAGCA11 - Adaptable Units**

A minimum of twenty-five (25) residential units for adaptable use shall be provided within the development. The units designated as adaptable have been identified on the approved Compliance Summary drawing No. DA7.12 (issue 02, revised 10/09/2015).

(Reason: To confirm and clarify terms of consent)

8. **DAGCB01 - Australia Post Guidelines**

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

9. **DAGCB02 - Compliance with Disability Discrimination Act**

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

10. **DAGCB07 - Lighting**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.

(Reason: Protect amenity of surrounding area)

11. **DAGCB08 - Materials & Finishes Schedule**

The development shall be constructed and finished in materials and colours as indicated in the approved documents and/or otherwise conditioned.

Note: The blue glazed face brick proposed for the Formosa Street fence structure (see Drawing No. DA 4.12 issue 02 revised 10/09/2015 prepared by Fender Katsalidis Mirams (Sydney) Architecture) shall be replaced with Austral 'Bowral Blue' dry pressed brick or equivalent.

(Reason: Visual amenity)

12. **DAGCB10 - Site Management**

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

13. **DAGCB11 - Street Numbering of Lots and Units**

A Street and Unit Numbering Schedule, in accordance with AS/NZS 2819:2011 Rural and urban addressing, shall be prepared and submitted to Council for approval, **prior to the issue of any Construction Certificate.**

Numbering of units/properties shall be conspicuously displayed at the front of the property and shall be maintained in accordance with Council's Street Numbering Policy.

Should the property be strata subdivided, the approved numbering system shall be included in the final plans of strata subdivision.

(Reason: Identification of Property for Emergency Services and Mail Deliveries)

14. **DAGCB15 - Telecommunications /TV Antennae**

No more than one telecommunications/TV antenna will be provided to each dwelling/building.

(Reason: Environmental amenity)

15. **DAGCC05 - Waste Management**

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

(Reason: Compliance with approval)

Conditions which must be satisfied prior to the commencement of demolition of any building or structure

16. **DAPDA02 - Residential Storage**

The architectural plans shall be amended and submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** to demonstrate and confirm that the total volume of residential storage space required under *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* has been provided.

This includes a minimum of:

- 6m³ for one-bedroom units
- 8m³ for two-bedroom units
- 10m³ for three-bedroom units

(Reason: Amenity)

17. **DAPDA03 - Footpath Awning**

The awning components over the footpath along Victoria Road, as indicated on the approved drawings, shall:

- Not encroach within 600mm from the face of the kerb
- The height of the completed awning shall not vary from within the range of 3 metres to 4.5 metres above the completed footpath
- The awning shall be detachable from the building without causing any concealed structural failure
- Provision for awning cut-outs shall be made for existing and/or new trees
- New awnings should be no higher or lower by 600mm than neighbouring awnings, for continuity
- Awnings are to be flat or near flat in shape. Raised or curved awning structures are not permitted
- Eaves and fascias are to be flat or near flat in shape
- Awning fascias are to be a maximum 300mm high including any added on future signage and in keeping with the scale and character of the building

Details in this regard must be indicated on the architectural plans **to be submitted with the Construction Certificate**.

(Reason: Pedestrian amenity)

18. **DAPDA04 - Crime Risk Assessment**

A formal Crime Risk Assessment shall be carried out by a suitably qualified person and submitted to the Certifying Authority **prior to the issue of any Construction Certificate**.

All recommendations in the assessment report shall be adopted and/or reflected in the architectural plans to be submitted for the Construction Certificate.

(Reason: Safety and Security)

19. **DAPDB01 - Construction Certificate - Prior to the Commencement of any Demolition Works**

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of erection of building" pursuant of section 81A(2) of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the **issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act**.

(Reason; Statutory Requirement)

20. **DAPDB02 - Demolition**

Demolition - General

- a. That two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:
 - The date when demolition will commence,
 - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer.
 - The licence number of the demolisher, and relevant WorkCover licenses, (see minimum licensing requirements in (d) below, and
 - Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$10,000,000.00.
- b. Demolition of buildings and structures must comply with all current and relevant Australian Standards.
- c. Demolition works are restricted as follows:
 - Monday to Saturday inclusive - 7:00am - 5:00pm
 - Sundays and Public Holidays - No work
- d. At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:
 - The date when demolition will commence;
 - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
 - The telephone number of WorkCover's Hotline 13 10 50.

Demolition Involving the Removal Of Asbestos

General Information

Homes built or renovated prior to 1987 are likely to contain asbestos. Asbestos is most commonly found within eaves, internal and external wall cladding, ceilings and walls (particularly within wet areas such as bathrooms and laundries), and fences. Unless properly handled, asbestos disturbed or removed during renovations can cause the development of asbestos related diseases, such as asbestosis, lung cancer and mesothelioma.

To ensure work does not cause undue risk please see the following site for further information: www.asbestosawareness.com.au

Asbestos to be removed by licensed asbestos removalist

All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License which ever applies AND a current WorkCover Demolition License where works involve demolition.

NOTE:

- Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10m² or less of non-friable asbestos (approximately the size of a small bathroom).
Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license.
- To find a licensed asbestos removalist please see www.workcover.nsw.gov.au

Compliance with applicable Legislation, Policies and Codes of Practice

Asbestos removal works are to be undertaken in accordance with the following:

- NSW Work Health and Safety Act and Regulation 2011;
- Safe Work Australia Code of Practice for the Management and Control of Asbestos in the Workplace [NOHSC:2018(2005)]
- NSW Government WorkCover Code of Practice - How to Safely Remove Asbestos;
- NSW Government WorkCover Code of Practice - How to Manage and Control Asbestos in the Workplace; and

Clearance certificate

Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.

Notification of asbestos removal works

At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to the commencement of asbestos removal works. Notification is to include, at a minimum:

- The date and time when asbestos removal works will commence;
- The name, address and business hours contact telephone number of the demolisher, contractor and/or developer;
- The full name and license number of the asbestos removalist/s; and
- The telephone number of WorkCover's Hotline 13 10 50

Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.

Barricades

Appropriate barricades must be installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.

(Reason: To ensure compliance with the relevant legislation and to ensure public and work safety)

21. **DAPDB03 - Site Safety Fencing - Demolition only**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing **must be erected before the commencement of any demolition work** and maintained.

The site shall be maintained in a clean and orderly condition during demolition works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

22. **DAPDB05 - Erosion and Sediment Control During Demolition**

Erosion and sedimentation controls shall be in place **prior to the commencement of demolition works** and shall be maintained throughout the demolition of the building and any regrading of the ground levels, approved removal of vegetation etc. The controls shall be installed in accordance with the details approved by Council and/or as directed by Council officers. These requirements shall be in accordance with Managing Urban Stormwater - soils and Construction produced by Landcom (Blue Book). A copy of the Erosion and Sediment Control Plan must be kept on site during the demolition works and made available to Council officers on request.

(Reason: Environmental protection)

Conditions which must be satisfied prior to the issue of a Construction Certificate

23. **DACCA01 - Access for People with Disabilities**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

24. **DACCA02 - Disabled Toilets**

Plans and details of the disabled toilet/s complying with the relevant Australian Standards, the Building Code of Australia, and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The plans must be approved by the Accredited Certifier **prior to issue of a Construction Certificate**.

(Reason: To inform of relevant access requirements for persons with a disability)

25. **DACCA03 - Waste Management - Special Conditions**

The approved Waste Management Plan prepared by Elephants Foot, dated 21 August 2015 and the approved drawing No. DA 4.1 (revision 04), shall be amended to correspond with each other and include the following requirements.

Residential Waste Management

1. Minimum storage space shall be provided for:
 - Waste - 164 x 120L = 19,680L / 660L bins = 30 bins
 - Or if compacted 2:1 = 15 x 660L bins = 30 bins
 - Or 19,680L / 1100L = 18 x 1100L bins
 - Recycling - 164 x 120L = 19,680L / 660L bins = 30 bins
 - Or 19,680L / 1100L = 18 x 1100L bins
2. Collection frequency
 - Domestic bins to be collected once per week
3. Provide additional storage space for at least 2 x 660L/1100L bins to be used specifically for excess cardboard.

Commercial Waste Management

4. Provide each commercial tenancy with individual and unique locking system for security.
5. Ensure that storage space is provided for at least half of the expected volume (as indicated in the approved Waste Management Plan prepared by Elephants Foot, dated 21 August 2015) of commercial waste and recycling to assist with minimising negative impacts from collection movement, noise and additional traffic.

(Reason: Waste Management and Amenity)

26. **DACCA04 - Noise - Living Spaces**

The approved design shall ensure that the following noise levels (LAeq levels) are not exceeded for residential development:

- In any bedroom in the building-35 dB(A) at any time between 10.00 pm and 7.00 am, anywhere else in the building (other than a garage, kitchen, bathroom or hallway)-40 dB(A) at any time.

The Principle Certifying Authority must be satisfied that the development has adequately adopted all recommendations in the approved Acoustic Assessment prepared by Renzo Tonin & Associates, dated 13 February 2015 and has been designed to ensure the above noise levels are not exceeded **prior to the issue of any Construction Certificate.**

(Reason: Residential amenity)

27. **DACCB02 - Damage Deposit for Council Infrastructure**

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of **\$250,000.00** shall be paid to Council **prior to the issue of the Construction Certificate.**

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop differential settlement and maintain the integrity of council infrastructure and asset.

(Reason: Protection of Council infrastructure)

28. **DACCB03 - Long Service Levy Payments**

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate.** Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

(Reason: Statutory requirement)

29. **DACCB04 - Section 94 Contributions**

The following Section 94 Development Contributions are required towards the provision of public amenities and services in accordance with the City of Canada Bay s94 Development Contributions Plan.

Based on the following rates, as at December 2015 (CPI 108.9)

Infrastructure Type	Studio/One bedroom dwelling	Two bedroom dwelling	Three + bedroom dwelling	Additional Lot
Community Facilities	\$1,095.88	\$1,506.08	\$2,179.39	\$2,179.39
Civil Infrastructure	\$1,063.97	\$1,514.66	\$2115.94	\$2115.94
Plan Preparation and Administration	\$120.35	\$171.33	\$239.35	\$239.35
Open Space and Recreation	\$7,776.60	\$11,070.68	\$15465.32	\$15465.32
TOTAL	\$10,056.81	\$14,316.75	\$20,000	\$20,000

Based on the following number of Dwellings and Bedrooms:

No. of Dwellings	No. of Studio & One beds	No. of Two beds	No. of Three or more beds	No. of Additional lots
	56	92	16	N/A
	\$563,181.36	\$1,317,141.00	\$320,000.00	
TOTAL	\$2,200,322.36			

Any change in the Consumer Price Index between December (CPI 108.9) and the date that the Section 94 Development Contribution is paid, will be added/subtracted from the amount cited above.

Contributions must be receipted by Council and submitted to the Accredited Certifier **prior to the issue of any Construction Certificate.**

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

A copy of the City of Canada Bay Section 94 Development Contributions Plan may be obtained from Council's website.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments)

30. **DACCB08 - Fees to be paid to Council prior to issue of the Construction Certificate**

Damage Deposit	\$250,000.00
Sect. 94 Contributions	\$2,200,322.36 + CPI
TOTAL	\$2,450,322.36 + CPI where applicable

PLEASE NOTE that other fees and charges may be applicable to the proposal.

The applicant is advised to obtain a copy of Council's latest Fees and Charges schedule available at Council's Customer Services Section. Further information as to other fees and charges applicable to your development may be obtained by contacting Council's Customer Services Centre on 9911 6555 during office hours.

(Reason: Statutory requirement and information)

31. **DACCE02 - Construction Management Plan**

Prior to the issue of a Construction Certificate, submit to the Accredited Certifier a Construction Management Plan that clearly sets out the following:

- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer.
- (f) A Soil and Water Management Plan detailing all sedimentation controls.

(Reason: Safety, amenity and protection of public infrastructure and the environment)

32. **DACCE03 - Continuous Awnings**

The awning over the footpath, as indicated on the approved drawings, shall not encroach within 600mm from the face of the kerb. The height of the completed awning shall not vary from within the range of 3 metres to 4.5 metres above the completed footpath. The awning shall be detachable from the building without causing any concealed structural failure. Provision for awning cut-outs shall be made for existing and/or new trees. Details in this regard must be indicated on the architectural plans **to be submitted with the Construction Certificate**.

(Reason: Pedestrian amenity)

33. **DACCE04 - Obtaining a Construction Certificate for Building Work**

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

(Reason: Information)

34. **DACCF02 - Landscape Maintenance Strategy**

To ensure the survival of landscaping following works, a landscape maintenance strategy for the owner/occupier to administer over a 12 month establishment period following the issue of the Occupation Certificate shall be prepared and provided to the satisfaction of the Accredited Certifier **with the Construction Certificate application**. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

(Reason: Ensure landscape survival)

35. **DACCG01 - Available Visitor Car Parking Signage**

A sign shall be erected in a suitable location on the property near the driveway entrance indicating where visitor parking is available on the site. Details shall be submitted **prior to the issue of the Construction Certificate**.

(Reason: Adequate access and egress)

36. **DACCG02 - Bicycle Storage Provision**

Provision for bicycles shall be in accordance with the City of Canada Bay Development Control Plan for Bicycle Parking and Storage Facilities. Details shall be submitted **prior to the issue of the Construction Certificate**.

(Reason: Convenience)

37. **DACCG03 - Car Parking Areas for Multiple Use Buildings**

The following car parking and service vehicle requirements apply:-

- (a) **319** car spaces shall be provided on the development site.
This shall comprise of:-
 - 223** residential spaces;
 - 24** visitor spaces;
 - 72** business/commercial/retail premises spaces;
- (b) All car spaces shall be allocated and marked according to this requirement.
- (c) If the development is to be strata subdivided, the car park layout must reflect the above allocation and thereafter be regarded as part of the entitlement of that strata lot. **Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.**
- (d) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- (e) The parking bays shall be delineated by line marking.
- (f) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.

The following traffic control measures shall be implemented on site:-

- (a) Signage indicating "Entry Only" shall be prominently displayed at the entrance to the development.
- (b) Signage indicating "Exit Only" shall be prominently displayed at the exit to the

development.

- (c) One-Way directional arrows shall be painted on the driveway pavement to indicate the required vehicular directional movement through the car parking area.

The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: Parking and access)

38. **DACCG04 - Disabled Car Parking Spaces**

Car parking for people with disabilities shall be provided in accordance with the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

The above details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: To inform of relevant access requirements for persons with a disability)

39. **DACCG05 - Emergency Vehicles - Pavement Design**

Internal access roads and driveways, which are required for access by service and/or emergency vehicles, shall be designed to withstand minimum laden weight of up to 24 tonnes. Details shall be submitted to and approved by the Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: Adequate access and egress)

40. **DACCG06 - Maintaining Sight Lines (multi- unit development)**

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** showing compliance with this condition.

(Reason: Safety)

41. **DACCG09 - Ramp Width Requirements (multi-unit development)**

The internal driveway must be a minimum 5.50m wide (clear width) for the first 6 metres inside the property so as to allow entering & exiting vehicles to pass within the site. Should the driveway narrow after this point it is then to be designed with a minimum 1.5m x 1.5m splay to allow the passing to work. The building plans shall indicate compliance with this requirement **prior to the issue of a construction certificate**.

(Reason: Safety and traffic management)

42. **DACCG10 - Speed Hump and Stop Sign on Exit**

The applicant shall install a stop sign and a speed hump at the exit from the site. The

stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement **prior to the issue of a construction certificate.**

(Reason: Traffic safety and management)

43. **DACCG11 - Stacked Parking**

Any stacked parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking). Details in this regard must be reflected in the plan documentation to be **lodged with a Construction Certificate** application. Manoeuvring of stacked vehicles must occur wholly within the property.

(Reason: Compliance and appropriate allocation of parking)

44. **DACCG13 - Vehicular Access Ramps**

Vehicular access ramps shall comply with the provisions of AS/NZS 2890.1:2004. Plans to be submitted shall contain the following details:

- (i) Longitudinal section along the extreme wheel paths of each driveway/access ramp at a scale of 1:25 demonstrating compliance with the scraping provisions of AS/NZS 2890.1:2004. It shall include all levels and grades, including those levels stipulated as boundary levels, both existing and proposed. It shall extend from the centre-line of the roadway through to the parking area.
- (ii) Sections showing the clearance to the underside of any overhead structure (minimum headroom requirements 2200mm minimum for standard headroom clearance or 2400mm where disabled access provisions are to be provided) demonstrating compliance with the provisions of AS/NZS 2890.1:2004.
- (iii) Longitudinal section along the gutter line showing how it is intended to transition the vehicular crossing into the existing kerb and gutter. Boundary levels shall generally run parallel with the kerb levels.
- (iv) Location of verge trees, street furniture and service installations.
- (v) Superimposition of vehicle turning circles for access into parking spaces.
- (vi) Certification that the design complies with AS/NZS 2890.1:2004 by a Qualified Engineer.

The certification referred to in (vi) above shall be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate (for the design) and to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the 'as-built works'.**

(Reason: To ensure adequate vehicular access can be achieved)

45. **DACCG14 - Vehicular Circulation, Aisles & Ramps**

The aisle widths, internal circulation, ramp widths and grades of the car park shall comply with the Roads and Traffic Authority Guidelines and AS/NZS 2890.1:2004 - Off-Street Car Parking Code.

(Reason: Parking and access)

46. **DACCH03 - Privacy - Obscure Glass**

All bathroom and en-suite windows shall consist of obscure glass. The changes in this regard shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** for the proposed development.

(Reason: Privacy and Amenity)

47. **DACCI01 - Damage Report**

Prior to the issue of the Construction Certificate, a Damage Report Form shall be completed and submitted to Council. This Damage Report Form is for the evaluation of the existing condition of the road reserve, which must be filled out and signed by the Applicant and submitted to Council.

This Form will be used to assist Council in determining the refund of any damage deposits and any likely repairs necessary. If an approved Damage Report Form is not provided, Council at its discretion shall carry out an independent evaluation of the condition of the road reserve and any damages found will be rectified at the Applicant's cost.

When lodging the Damage Report Form, fees are payable in accordance with Council's fees and charges schedule, which will go towards administration and inspection costs.

The cost of repairing any damage to Council property (including the footpath, verge, street trees, kerb, gutter, road pavement or the like) during and/or immediately after construction must be paid to Council or shall be deducted from the damage deposit bond. Repair of damaged Council property by the Applicant or his agent is not permitted unless approved by Council.

For roadways requiring asphaltic concrete works or adjustment works, these shall be done to a minimum width as specified by Council. Minimum dimensions are given in Council's Specification for Driveway Construction or Specification for Restoration Works.

(Reason: Maintain public assets)

48. **DACCI03 - Protection of Public Places**

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be

erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

(Reason: Safety)

49. **DACCI05 - Vehicular Crossings**

Full-width, heavy-duty concrete vehicular crossing(s) shall be provided across the footpath at the entrance(s) and/or exit(s) to the site, subject to approval by Council's Engineer. In this regard the Applicant must obtain a copy of Council's "Specification for Driveway Construction" and lodge an application for vehicular crossing(s) (available from Council's Customer Services Centre or downloaded from Council's internet website), and pay the appropriate fees and charges **prior to the lodgement of the Construction Certificate**.

(Reason: To ensure appropriate access to the site can be achieved)

50. **DACCJ01 - Hoardings**

A Hoarding Application for the erection of a Class A (fence type) or Class B (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained.

The relevant application form shall be submitted to Council with a footpath occupancy fee based on the area of footpath to be occupied according to Council's Schedule of Fees and Charges, and the application shall be approved **before the commencement of work**.

A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy also provided to Council. The Policy is to note Council as an interested party. The copy is to be provided to Council **prior to the issue of a Construction Certificate**.

(Reason: Safety & information)

51. **DACCJ02 - Redundant Vehicular Crossings and Ancillary Works**

Where new pavement, repair or reinstatement of footpath or other ancillary works such as kerb and gutter and stormwater pit construction is proposed, the Applicant shall submit to Council an application for "Driveway and ancillary works" (available from Council's Customer Services Centre) and pay the appropriate fees & charges **prior to the issue of a Construction Certificate**.

All disused or redundant vehicle crossings and laybacks shall be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council and the footpath area is to be restored to the satisfaction of Council's Engineer, prior to the issue of the Occupation Certificate.

(Reason: Public infrastructure maintenance)

52. **DACCJ03 - Separate Approval for Works in the Public Road (External Works) - Section 138 Roads Act**

Plans submitted **with the application of a Construction Certificate** shall clearly delineate between internal works and external works and note that **Construction Certificate approval does not include approval for external works.**

Pursuant to Section 138 of the Roads Act 1993 and **prior to the issue of a Construction Certificate**, the applicant must submit detailed plans to and obtain a written approval from the Appropriate Road Authority, for any works in the road reserve.

Additionally, where the work involves closure of a carriageway on a State Road, Regional Road, or it is such that it may impact the traffic flow on a State Road or Regional Road, or is within close proximity of a Traffic Facility (eg Traffic Lights) then a Road Occupancy License must be obtained from the Planned Incidents Unit of the Traffic Management Centre of the RTA. The application should be lodged at least 10 days prior to the planned commencement date.

(Reason: Protection of Public Assets and information)

53. **DACCJ04 - Traffic and Parking - Special Conditions**

1. Prior to the issue of a construction certificate, the applicant shall submit, for review and approval by Council's Engineers, a detailed Construction Traffic Management Plan (CTMP). The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition, excavation and construction phase of the development. The plan shall be certified by a suitably qualified and experienced traffic consultant and all traffic associated with the subject development shall comply with the terms of the approved Construction Traffic Management Plan.

The following matters (at a minimum) must be addressed in the CTMP:

- o A detailed description and route map of the proposed truck/construction vehicle access routes,
- o The locations of any proposed Construction Works Zones along the site frontage,
- o Provide a construction schedule,
- o Tradesperson parking (parking shall be provided on-site where possible),
- o Provide relevant Traffic Control Plans (certified by an RTA accredited person i.e. red or orange ticket),
- o Provide relevant Pedestrian Management Plans,
- o A site plan which indicates site entrances and exits, turning areas within the site for construction and spoil removal vehicles allowing a forward ingress and egress for all construction vehicles on the site (superimposed truck swept path diagrams). Site entrances and exits shall be controlled by a certified traffic controller.

2. The turning bays on Ground and B1 levels are to be clearly line-marked and signposted to indicate they are for the use of turning vehicles only and that parking is prohibited. Plans shall demonstrate compliance with this requirement prior to the issue of a construction certificate.

3. AS/NZS 2890.6:2009 requires a bollard be installed in the shared area adjacent to a disabled parking space and the shared area diagonally line-marked. The building plans shall demonstrate compliance with this requirement prior to the issue of a construction certificate.

4. All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes. **The owner of the dwelling must advise in writing all intending owners, tenants and occupiers of the dwelling, at the time of entering into a purchase/ lease / occupancy agreement of this prohibition.**

5. Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must be located in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected **prior to an Occupation Certificate being issued** and must be maintained in good order at all times.

(Reason: Traffic and Parking Management)

54. **DACCK01 - Application for a Construction Certificate**

The applicant must apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and specifications complying with the Building Code of Australia (BCA), relevant Australian Standards, and the development consent and conditions.
- (b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a practising consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

Note: The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.

- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428.
- (f) If an alternative solution to the “deemed to satisfy” provisions of BCA is proposed, the following details must be lodged:
 - Performance requirements that the alternative solution intends to meet.
 - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
 - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

Note: The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any

fees relating to any review are required to be paid **prior to the issue of the Construction Certificate.**

(Reason: Statutory requirement)

55. **DACCK02 - BASIX Commitments**

BASIX Certificate No **605290M** shall be submitted to the Accredited Certifier with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Accredited Certifier and Council. If any proposed change in the BASIX commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 96 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate **prior to the issue of any Construction Certificate.**

(Reason: Statutory Compliance)

56. **DACCK03 - Energy Australia Requirements**

The approved development must comply with the requirements of Energy Australia. **Prior to the issue of a Construction Certificate**, the applicant shall demonstrate to the Accredited Certifier that any such requirements have been complied with.

(Reason: Statutory requirement)

57. **DACCL02 - Certification of the Stormwater Drainage System Design**

The proposed stormwater design shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to the issue of the Construction Certificate.**

(Reason: Adequate stormwater management)

58. **DACCL04 - Erosion and sedimentation controls**

Erosion and sedimentation controls must be provided to ensure:

- (a) Compliance with the approved Soil and Water Management Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All uncontaminated run-off is diverted around cleared or disturbed areas
- (d) Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition/ development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar

- (h) All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
- (i) Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site

(Reason: Environmental protection)

59. **DACCL05 - Grated Drain to Garage**

A grated trench drain shall be provided across the (garage entrance/driveway/street boundary). Unless otherwise sized by a Hydraulic Engineer, the dimensions of the trench grate shall be no less than 300mm wide by 100mm deep at the shallow end, and have a “bottom” slope of 2 %. This trench drain shall be connected to an approved drainage system.

In the event of the Hydraulic Designer sizing the grated drain, the calculation shall be in accordance with AS/NZS3500.

The above information must be indicated on all relevant drawings **to be submitted with the Construction Certificate**.

(Reason: Environmental protection)

60. **DACCL06 - Rainwater Re-use**

A rainwater re-use system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Policy and/or “Specification of the Management of Stormwater”, whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted and approved by Council or an Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: Compliance and Amenity)

61. **DACCL07 - Silt Arrestors and Gross Pollutant Traps**

Silt and gross pollutant traps shall be fitted in all new stormwater pits, designed in accordance with Council’s “Specification for the Management of Stormwater” and to the satisfaction of Council or an Accredited Certifier. Details are to be submitted with the design **prior to the issue of the Construction Certificate**.

(Reason: Environmental)

62. **DACCM01 - Dilapidation Report**

Subject to access being granted, a Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out **prior to the issue of the Construction Certificate**.

The Dilapidation Report is to be prepared by a suitably Qualified Engineer with current Corporate Membership with the Institution of Engineers, Australia or Geotechnical Practitioner.

The Report shall cover structural and geotechnical factors likely to arise from the development.

A copy of this Report shall be submitted to Council as a record.

The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

(Reason: Safety)

63. **DACCM02 - Geo-technical Report**

A comprehensive geo-technical engineering report assessing the impact and safety of the proposed works shall be prepared by a suitably experienced and qualified geo-practitioner and **submitted with any Construction Certificate**. The report must include the results of subsurface investigations involving either test pits to rock, or preferably the drilling of cored boreholes (to 1m below the proposed final excavation level). The report shall describe inter alia:-

- (a) an indication of the nature and depth of any uncontrolled fill at the site;
- (b) an indication of the nature and condition of the material to be excavated;
- (c) indications of groundwater or seepages;
- (d) required temporary measures for support of any excavations deeper than 1m adjacent to property boundaries;
- (e) statement of required excavation methods in rock and measures required to restrict ground vibrations;
- (f) other geo-technical information or issues considered relevant to design and construction monitoring.

(Reason: Structural safety)

64. **DACCM04 - Support and Protection for Neighbouring Buildings**

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of clause 98E of the Environmental Planning and Assessment Regulation 2000, including:

- (1) (a) protect and support the adjoining premises from possible damage from the excavation, and
(b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details shall be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate**.

(Reason: Structural safety)

65. **DACCN01 - Electricity Connection**

Provision must be made for connection to future underground distributions mains. This must be achieved by installing:

- An underground service line to a suitable existing street pole; or
- Sheathed underground consumers mains to a customer pole erected near the front property boundary (within 1 metre)

Note: A limit of one (1) pole per site will apply.

Details are to be submitted **with the application for a Construction Certificate.**

(Reason: Environmental Amenity)

66. **DACCN02 - Electricity Substation**

Any required electricity substation must be located within the boundaries of the site. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier **prior to the issue of a Construction Certificate** detailing the energy authority's requirements.

Note: Where an electricity substation is required but no provision has been made to place it within the approved building or its site and no details are provided on the approved development consent plans, a section 96 application is required to be submitted to Council for approval of an appropriate location for the required electricity substation.

(Reason: Access to utility)

67. **DACCN03 - Telecommunications**

Provision must be made for relocation of telecommunications network assets including underground placement of any existing aerial cables and infrastructure. Any costs associated with the relocation of the above are at the requestor's expense.

Should you need to discuss access to or relocation of any Telstra assets please contact Telstra's Network Integrity team by email F1102490@team.telstra.com <<mailto:F1102490@team.telstra.com>> or by phone: 1800 810 443 (opt1).

Details are to be submitted **with the application for a Construction Certificate.**

(Reason: Environmental Amenity)

Conditions which must be satisfied prior to the commencement of any development work

68. **DAPCB01 - Appointment of Principal Certifying Authority**

No work shall commence in connection with this Development Consent until:

- (a) A construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:

- (i) notified the Council of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the principal certifying authority of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

(Reason: Statutory requirements)

69. **DAPCB02 - Construction Certificate**

No work shall commence until you:

- (a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Accredited Certifier - a fee applies for this service; and
- (b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service

(Reason: Statutory Requirement)

70. **DAPCB05 - Notice of commencement**

No work shall commence until you submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifying Authority (either Canada Bay Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

(Reason: Statutory Requirement)

71. **DAPCB06 - Site Safety Fencing**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the construction works. The fencing **must be erected before the commencement of any work and maintained.**

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition and construction works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

72. **DAPCB07 - Principal Certifying Authority (PCA) Sign**

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(Reason: Statutory Requirement)

73. **DAPCB09 - Toilet Amenities on Construction Site**

Prior to commencement of any building works, toilet facilities for employees must be provided in accordance with WorkCover NSW requirements.

Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet or sewer connected toilet closet.

(Reason: Statutory Requirement - Health and amenity)

74. **DAPCB10 - Notice of Requirements from Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. For details refer to Sydney Water's website at www.sydneywater.com.au.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice of Requirements must be submitted to the Accredited Certifier **before the commencement of works**.

(Reason: To comply with statutory requirements)

75. **DAPCC01 - Erosion & Sediment Control: Minor works - Prior to construction**

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater - Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

(Reason: Environmental protection)

76. **DAPCC02 - Soil & Water Management during Construction**

Landcom's "Managing Urban Stormwater - Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Accredited Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

(Reason: Environmental protection)

Conditions which must be satisfied during any development work

77. **DADWA01 - Burning and Burying of Waste**

No materials or rubbish resulting from the land clearing, demolition and building works must be burnt or buried on the site.

(Reason: Health and amenity)

78. **DADWA02 - Construction Hours**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

(Reason: Safety and amenity)

79. **DADWA03 - Disruption of Traffic**

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

(Reason: Safety and information)

80. **DADWA04 - Dust Control**

Small Works

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

Major Works

The following measures must be taken to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.

(Reason: Environmental amenity)

81. **DADWA05 - Excavation - Water**

All excavations must be kept free from the accumulation of water.

(Reason: Health and safety)

82. **DADWA06 - Prevention of Nuisance**

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris, noise and the like during the demolition, excavation and building works.

(Reason: Health and amenity)

83. **DADWB03 - Construction Management Plan**

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

(Reason: Compliance with condition of consent)

84. **DADWB04 - Damage to Adjoining Properties**

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

(Reason: Structural safety)

85. **DADWB05 - Stamped Plans**

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

(Reason: To ensure compliance with approved plans)

86. **DADWB06 - Site requirements during demolition and construction**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All

non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.

- (k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- (l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
- (m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council including payment of relevant fees.
- (o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- (p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

87. **DADWD01 - Road Opening Permit**

Pursuant to Section 138 of the Roads Act, should any work on the verge, footpath, public road reserve or public reserve (open space) be required, approval will need to be obtained from Council. In this regard the Applicant is to contact Council's Customer Services Centre. A Road Opening Permit is to be obtained **prior to any works on the verge, footpath, public road reserve or public reserve being undertaken.**

Note: Road Opening Permits do not include driveway and layback construction.

(Reason: Maintain public asset)

88. **DADWF01 - Noise - Construction**

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997 and the DECC Noise Control Guideline - Construction Site Noise and AS 2436-1981 - "Guide to Noise Control on Construction, Maintenance and Demolition Sites" for the control of construction noise which specifies that:

- Construction period of 4 weeks and under - The L₁₀ level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A).
- Construction period greater than 4 weeks and not exceeding 26 weeks - The L₁₀ level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A).

- Silencing - All possible steps should be taken to silence construction site equipment.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the identified noise source/s to ensure compliance with Councils requirements on noise. An acoustic assessment & report will be required to ensure that the intrusive noise from the plant does not exceed 5 dB (A) above the background noise.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the premises to ensure compliance with the NSW DEC Industrial Noise Policy. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

(Reason: Noise Attenuation)

89. **DADWF02 - Noise - Plant**

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site.

(Reason: Safety and Amenity)

90. **DADWF03 - Noise & Vibration**

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by City of Canada Bay Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

(Reason: Noise attenuation)

91. **DADWG01 - Obstruction of Road or Footpath**

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

(Reason: Protection of infrastructure, safety & information)

92. **DADWG02 - Protection of Public Places**

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence

shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

(Reason: Safety)

93. **DADWH01 - Compliance with Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia. **Note:** Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and Assessment Regulation 2000*, must comply with the Building Code of Australia in all other respects.

(Reason: Prescribed statutory control)

94. **DADWH02 - Critical Stage Inspections - General**

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 109E(3)(d) of the Act or as required by the PCA and any PCA Service Agreement.

Note 1: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note 2: The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

(Reason: Statutory requirement)

95. **DADWH04 - Inspections for Building Work - Critical Stages (Classes 2,3 or 4)**

Where applicable inspections of the development site may be required to be undertaken at the following stages:

- (a) Prior to covering of waterproofing in any wet areas, for a minimum of 10 % of rooms with wet areas within a building;
- (b) Prior to covering any stormwater drainage connections;
- (c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- (d) Other.

If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (d), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (d) may only be carried out by the PCA.

For each inspection the principal contractor (*or owner-builder*) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

(Reason: Statutory Requirements)

96. **DADWH05 - Critical Stage Inspections for Building Work (Classes 5, 6, 7, 8 or 9)**
Where applicable inspections of the development site may be required to be undertaken at the following stages:
- (a) Prior to covering any stormwater drainage connections; and
 - (b) After the building work has been completed and prior to any occupation certificate being issued in relation to the building;
 - (c) Other.

If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (c), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (c) may only be carried out by the PCA.

For each inspection the principal contractor (*or owner-builder*) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

(Reason: Statutory Requirements)

97. **DADWH06 - Inspection Records & Compliance Certificates**
The PCA or accredited certifier undertaking each of the inspections must make a **record of each inspection** in accordance with Clause 162B of the Environmental Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any **compliance certificates** issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued.

A compliance certificate must be issued where:

- (a) Either:
 - (i) Council is appointed the PCA; or
 - (ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and
- (b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

(Reason: Statutory Requirement)

98. **DADWI01 - Progress Survey - Major Development (greater than two stories)**

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

- (a) At the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- (b) Prior to placement of concrete, the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- (c) Prior to placement of concrete at each second floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- (d) Prior to roofing, or completion of the highest point of the building, showing the anticipated level of the completed work and the relationship to the boundary; and
- (e) At completion, works showing the relationship of the building to the boundary.

Progress certificates in response to points (a) through to (e) shall be produced to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part

99. **DAOCB01 - Certification of Engineering Works**

Prior to occupation, the following documents must be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A “Work - As - Executed” plan of the engineering and/or drainage works.

The abovementioned Certificate is to certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies with appropriate SAA Codes relevant Standards and Council’s Policies and Specifications.

For major works, such as subdivisions, works within the road reserve (requiring separate S138 approval) and as where specified by Council, a Part 4A Certificate will be required. It is strongly recommended that the Engineer supervise the works.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**. These documents are to be retained on Council's Construction Certificate file.

(Reason: Asset management)

100. **DAOCB02 - Strata Subdivision Approval**

This approval does not include approval to strata subdivide the subject property. Should strata subdivision of the property be sought, a **separate development application** must be submitted to Council for approval **prior to occupation and/or use of the building/s**.

(Reason: Information)

101. **DAOCB03 - Street Numbering Strategy**

The Principal Certifying Authority must be satisfied that the Council approved Street Numbering Strategy has been carried out on site **prior to the issue of any Occupation Certificate**.

The approved Street Numbering Strategy must not be altered in any way without prior consent of Council.

(Reason: Compliance)

102. **DAOCC01 - Civil Works on the Footway**

The Applicant is required to carry out the following works:

- Reconstruct any bays of cracked concrete footpath along the full frontage of the site.
- Reconstruct existing public drainage pit/pipe system
- Provide a new vehicular crossing.
- Remove any redundant vehicular crossings and replace with kerb and gutter to match the adjoining.

The above works must be completed to the written satisfaction of Council **prior to issue of any Occupation Certificate**. Where the Applicant nominates Council to undertake the civil and stormwater works, they must contact Council's Manager, City Construction and Fleet in order to obtain an estimated cost for construction and contract to undertake the works.

(Reason: Preserve Council asset and amenity)

103. **DAOCC02 - Construction of Concrete Footpath**

Any cracked or damaged section of the footpath adjoining the site along any of its street frontages shall be repaired or replaced to the satisfaction of Council.

The above works must be programmed and constructed **prior to the release of any Occupation Certificate**. Where the applicant would like Council to undertake any of

required works, they should contact Council's Senior Manager, City Services to obtain an estimated cost of construction, and contract to undertake the works.

(Reason: Preserve Council asset and amenity)

104. **DAOCC03 - Construction of Concrete Kerb and Gutter**

Standard 150 high concrete kerb with gutter shall be constructed to replace any damaged sections along the street frontages of the property.

The above works must be programmed and constructed **prior to the issuing of any Occupation Certificate.**

Where the Applicant would prefer Council to undertake the required works, they should contact Council's Manager, City Services to obtain an estimated cost of construction, and contract to undertake the works.

(Reason: Preserve Council asset and amenity)

105. **DAOCD01 - Occupation Certificate (section 109M of the Act)**

A person must not commence occupation or use (*or change of use where an existing building*) of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement)

106. **DAOCD02 - Evidence of Lawful Asbestos Disposal**

An Occupation Certificate for a development involving the removal of asbestos must not be issued until such time the applicant provides the principal certifying authority with a copy of receipt/s confirming lawful disposal of asbestos waste.

NOTE: Asbestos waste must be disposed at a waste management facility licensed by the NSW Environment Protection Authority (EPA) to accept such waste. Please see Appendix F of City of Canada Bay's Asbestos Policy, Contact NSW EPA on 131 555 or visit www.epa.nsw.gov.au for a list of waste management facilities licensed to accept asbestos waste.

(Reason: Health and Safety)

107. **DAOCE01 - Drainage System - Maintenance of Existing**

Where elements of the existing drainage system is to be utilised, the existing drainage system shall be overhauled and maintained clear of silt and accumulated debris. Silt and the like shall be *removed*, not flushed from the system.

A certificate shall be provided by a suitably qualified person to the satisfaction of the Principal Certifying Authority, (a registered plumber or a person of equivalent or greater experience or qualification) **prior to the issue of an Occupation Certificate** to confirm that the system is in good working order and adequate to accept additional flows.

(Reason: Maintenance and environment)

Conditions which must be satisfied prior to the issue of a Final Occupation Certificate

108. **DAFOA01 - Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:-

1. Forwarded to City of Canada Bay Council;
2. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
3. Prominently displayed in the building.

(Reason: Fire safety)

109. **DAFOA02 - Certificate of Test of Mechanical Ventilation**

On the satisfactory completion of work and **prior to the issue of an Occupation Certificate**, a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

(Reason: To ensure compliance with approved plans)

110. **DAFOB05 - Wash down of Brickwork**

Prior to occupation or use, the brickwork shall be thoroughly cleaned down on all sides. All necessary precautions shall be taken to ensure that this work does not affect neighbouring properties.

(Reason: Visual amenity and environmental health)

111. **DAFOE01 - Certification of the Constructed Stormwater Drainage System**

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to issue of the Final Occupation Certificate**.

(Reason: Adequate stormwater management)

112. **DAFOE02 - Covenant & Restriction as to User for Stormwater Controlled Systems**

Prior to occupation and the issuing of an Occupation Certificate, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring

the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, etc.).

Easement Registration

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement not less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.

The wording on the 88B Instrument is to make reference to the Council file where the Construction plans and the "Work-as-Executed", (as built), plans are held. Typical wording can be obtained from Council's "Specification for the Management of Stormwater" document.

(Reason: Compliance and adequate maintenance of drainage system)

113. **DAFOE03 - OSD Identification Plate**

Prior to issue of Final Occupation Certificate, the applicant shall install an identification plate near or onto the control structure of the OSD system, this is to advise the registered proprietor of their responsibility to maintain the OSD facility and not to tamper with it in any manner without written consent.

The applicant can obtain the OSD identification plate from the Council at a cost.

(Reason: To ensure that the OSD system is installed and identified in accordance with this approval)

Conditions which must be satisfied during the ongoing use of the development

114. **DAOUD03 - Visitor Parking Restriction**

All visitor parking spaces must not at any time be allocated sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation.

(Reason: Compliance)

115. **DAOUD04 - Australia Post Guidelines**

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

Advisory Notes

1. **DAANN01 - Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required

to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.



Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision or essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

2. **DAANN02 - Dividing Fences**

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of or payment for the erection of dividing fences.

If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre or if legal advice or action is required, you may contact the Chamber Magistrate.

3. **DAANN03 - Footway Lease - Business Use of Footpath**

The operator of an approved business must apply to Council to lease Council's property (i.e. footways, plazas, or portions of public ways) should it be required for use in conjunction with the approved business.

The use of any footpath area for the purposes of additional dining to the approved business requires separate Council approval by application under section 125-127 & 137-139 of the *Roads Act, 1993* prior to the commencement of any such use.

A leasing fee will apply to the use of Council's property. The lease must be executed upon commencement of the operation of the refreshment room and is required to be renewed annually.

4. **DAANN04 - Lapsing of Consent**

In accordance with Section 95 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. **A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.**

5. **DAANN06 - Process for Modification**
The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 96 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.
6. **DAANN07 - Review of Determination**
In accordance with the provisions of Section 82A of the Environmental Planning and Assessment Act 1979(as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.
7. **DAANN08 - Right of Appeal**
Section 97 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.
8. **DAANN09 - Signage Approval**
A **separate development application** for any proposed signs which are either externally fitted or applied must be submitted for the approval of Council, prior to the erection or display of any such signs. This does not apply to signs which are classified as being 'Exempt Development' or the area approved for the Art Wall Graphic.
9. **DAANN10 - Skips on Council Footpath**
The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder's waste container be required to be left on Council's footpath, nature strip or roadway for the removal of any builder's waste etc. These fees must be paid prior to the container's placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.
10. **DAANN11 - WorkCover Requirements**
The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.
Further information can be obtained from WorkCover NSW's website at <http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx> or through their head office: WorkCover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

REPORT

1. BACKGROUND

The application, as submitted and notified to surrounding properties, sought consent for Demolition of all structures and construction of a mixed use building of six storeys to Victoria Road and stepping down to two storeys to Formosa Street containing 164 dwellings, 509m² of retail, 688m² of commercial space and basement parking for 314 vehicles.

Following preliminary assessment of the development application as lodged, the applicant was advised of issues relating to:

- Stormwater management
- Traffic and Parking
- Heritage
- Landscape provisions
- Size of commercial tenancies

The applicant subsequently responded with revisions and additional information as summarised in section 3 below.

Following the applicant's revisions, the proposal is recommended for approval with conditions and includes the following revised description:

- Demolition of all structures and construction of a mixed use building up to six storeys, containing 164 dwellings, ground floor commercial tenancies and basement parking for 319 car spaces.

Development schedule summary

Site Area	5,288m ²
Gross Floor Area	15,861m ²
Floor Space Ratio	2.99:1
Building Height	21.7m at highest point (Maximum six (6) storeys)
One bedroom apartments	56
Two bedroom apartments	92
Three bedroom apartments	16
Total number of apartments	164
Total Retail/Commercial Floor Area	1201m ²
Car Parking Spaces	223 Residential 24 Residential Visitor 18 Commercial tenancies 54 Restaurant tenancies Total: 319
Private Open Space	Private balconies for each dwelling ranging from 4m ² to 32m ² with private courtyards ranging from 25m ² to 42m ² for eleven dwellings with ground level access

To satisfy the requirements of Section 79C(1)(a) of the Act, this report includes references to provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the assessment of the Development Application.

Relevant Environmental Planning Instruments

Legislative Provisions

- Environmental Planning & Assessment Act 1979

Environmental Planning Instruments

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEP)
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005
- Canada Bay Local Environmental Plan 2013

Development Control Plans

City of Canada Bay Development Control Plan 2013

2. THE SITE AND ITS CONTEXT

The development proposed is within a *B4 Mixed Use* zone. The designated land use zone permits *commercial* and *residential flat building* development.

The site enjoys dual frontage, the primary frontage being along Victoria Road (an RTA classified main arterial road) and the secondary frontage being along Formosa Street which divides the *B4 Mixed Use* Drummoyne shopping strip from the *R2 Low Density Residential* zone on the opposite side of Formosa Street.

The site is known as 77 – 105 Victoria Street, Drummoyne and is legally identified as:

- Lot 45 DP651574
- Lot 1 DP506755
- Lot 48 DP656222
- Lots 1 & 2 DP516323
- Lots 1 & 2 DP798659
- Lot 1 DP100248
- Lot 1 DP455632
- Lot 1 DP913829
- Lots 57 & 58 DP455633

The site has an area of 5,288m² and has three (3) street frontages as described below:

- 123.49m to Victoria Road;
- 39.48m to Church Street; and
- 126.09m to Formosa Street

The site also adjoins a commercial property to the south east with a shared boundary of 41.98m in length.

The site is located approximately 6km west of the Sydney CBD, on the western side of Victoria Road in the Drummoyne commercial centre and approximately 400 metres south of the major intersection with Lyons Road.

Aerial map



Aerial view of the site (Source: SIX Maps)



Figure 1: Site location (Source: Fender Katsalidis Mirams Architects)

Development existing on the site includes a range of low rise commercial/retail buildings housing a variety of businesses such as a tyre repair station, a petrol station and home improvement businesses.

Surrounding development comprises:

- North (opposite side of Church Street) – four (4) storey mixed use commercial/residential flat building;
- East (opposite side of Victoria Road) - range of single to three (3) storey commercial buildings and shop top housing;
- South – two (2) storey commercial building currently occupied by a party hire business;
- West (opposite side of Formosa Street) – single storey residential dwelling houses fronting Formosa Street

There is no vegetation on site however there are two (2) large street trees on the Church Street frontage of the site.

The topography of the site is reasonably flat. The submitted Survey Plan of the site prepared by Denny Linker & Co Consulting Surveyors indicates that there is a cross-fall from Formosa Street (west) to Victoria Road (east) of approximately 1.8m. Along the length of the site the land rises approximately 1.4m from the southern end of the site to a high point around the middle of the site and then falls approximately 2m towards the Church Street end (north).

Development opposite the site in Formosa Street is predominantly detached single dwellings within the Conservation Area A (Bourketown Conservation Area), as identified under the *Canada Bay Local Environmental Plan 2013*.

3. PROPOSED DEVELOPMENT IN DETAIL

The proposed development as revised seeks consent for the following:

- Demolition of all existing structures on site;
- Remediation as may be required, earthworks and associated site preparation works;
- Construction of a building to a maximum six (6) storeys, that will contain 8 commercial tenancies fronting Victoria Road, a corner commercial tenancy fronting both Victoria Road and Church Street, a small commercial tenancy fronting Church Street, a corner commercial tenancy fronting both Formosa Street and Church Street, and 164 residential units;
- Ground level car park plus loading dock for use by the commercial tenants and an integrated basement over two (2) levels providing a total of 319 car parking spaces including 223 Residential, 24 Residential Visitor, 18 Commercial tenancies, 54 Restaurant tenancies; and
- Provision of two (2) vehicle access points from Formosa Street and associated infrastructure works.

The building component proposed along the Victoria Road frontage is modulated into nine components which include three residential storeys above the ground floor commercial component. These nine modules form the residential balconies of units fronting Victoria Road which are essentially enclosed to create winter gardens and also to reduce traffic noise from Victoria Road. It is noted that these areas are included in the gross floor area for the purposes of calculating floor space ratio.

The fifth and sixth residential storeys include open balcony areas. The fifth storey (Level 4) façade is setback approximately 2.2m and the sixth floor (Level 5/top floor level) is setback approximately 2.8 metres from the Victoria Road alignment. The overall building form then steps down to 3 storeys with a maximum 2 storey height addressing Formosa Street at the rear. In essence the primary building component addresses Victoria Road with three separate smaller building components along the Formosa Street alignment.

Project Amendments

The applicant has submitted additional information and amended plans in response to issues raised.

The following key changes have been made to the proposal since the application was lodged with Council:

- 26 August 2015
 - Face brick and palisade fencing has been introduced into the design of buildings “E” and “F” to improve the transition between the new contemporary building design of the proposal and the low density residential Heritage Conservation Area on the opposite side of Formosa Street. (A condition of consent to clarify type of face brick has been incorporated in the conditions of consent attached to the recommendation for approval)
- 18 & 25 September 2015
 - The (8) commercial tenancies along Victoria Road have been amended to convert them into to (6) larger tenancies
 - Lodgement of Remedial Action plan

- Revised Waste Management capacity in accordance with Council's DCP, with a revised Waste Management Plan prepared by Elephants Foot, dated 21 August 2015 being submitted
 - Amended Stormwater concept plans submitted in response to Council's Technical requirements
 - Traffic and Parking information regarding Swept Paths and long sections, revised car parking layout, Traffic and Parking report submitted in response to Council's issues, prepared by Colston Budd Hunt & Kafes Pty Ltd, dated 9 September
 - Revised landscape plan submitted to include species consistent with the recommendations made by Council
- 10 November 2015
 - Revised Stormwater Plans, OSD plans and affected Architectural Plans submitted
- 9 December 2015
 - Floor space ratio calculations revised and clarified. Maximum FSR compliance achieved
- 2 February 2016
 - Revised Architectural drawings following further Council discussions with applicant including:
 - i. Tenancy 3 increased from 300m² to 323m²
 - ii. Ground floor Victoria Road commercial tenancies reconfigured to provide (8) tenancies with areas ranging from 56m² to 111m²
 - iii. Commercial bin store at ground level relocated to be adjacent Lobby C
 - iv. Bicycle car parking provided behind tenancy 5
 - v. Two pairs of tandem car parking spaces at basement level 1 allocated to tenancies T1 and T2
 - vi. Clarification of FSR compliance. Proposed FSR following these final revisions is 2.997:1. Maximum allowable is 3:1
 - vii. Revised car parking numbers and allocation to a total of 319 on-site spaces including 54 spaces for Restaurant tenancies, 18 spaces for commercial tenancies, 223 spaces for residential dwellings and 24 visitor spaces.

4. PUBLIC SUBMISSIONS

In accordance with Council's Notification Development Control Plan, adjoining and nearby property owners and occupiers were advised of the proposal and invited to comment. The notification generated twelve (12) submissions objecting to the proposal and one (1) submission in favour of the proposal.

Submissions Received from Property Owners/Occupiers:

Submission author and address	Issue/s (refer to submission for full detail)	Applicants Response
1. Kelwyn Teo	Traffic congestion on Victoria Road	<i>The application is for a scale and density of development consistent with the planning controls prepared for the site and locality. The application is supported by traffic analysis</i>

9 Renwick Street Drummoyne	will be made worse	<i>based upon accepted assessment principles. Further the site is located on a major public transport bus route consistent with supported principles to provide development in well located centres which can utilise public transport.</i>
	Land amalgamation has increased density	<i>The proposed amalgamation will have no impact on the density of the development. The amalgamation instead provides for greater efficiency in car parking layouts and minimises the number of service access points for development in the locality.</i>
2. Lauren Crawford 27 Renwick Street Drummoyne	Privacy	<i>The proposed development is located on the south-western side of Victoria Road. The concern over privacy is from a property to the north-east of Victoria Road. The physical separation by Victoria Road and the fact that there is a development on the opposite side of Victoria Road, in between the two sites, means that it is considered highly unlikely that overlooking of the rear yard would occur.</i>
	Heritage impact	<i>The proposed development will have no detrimental impact on the heritage character of Renwick Street. Additionally, whilst the proposal adjoins the Bourketown Conservation Area, the proposed façade on Formosa Street has been amended to respond to the neighbouring semi-detached brick federation housing on Formosa Street. Brick has been introduced to the façade of buildings E & F with the intention of integrating the contemporary architecture of the proposed development with the materiality of the existing fabric. The height of the bricks will alternate, lower in front of the living spaces and higher in front of bedrooms which will have the effect of breaking up the façade.</i>
	Parking and Traffic	<i>Parking is provided in accordance with Council's DCP for the commercial and residential spaces. The car parking provision seeks to utilise the retail car parking to service retail uses and residential visitor car parking.</i> <i>It is also noted that if the application were to be considered against the provisions of the gazetted SEPP 65, a much lower residential car parking rate would be applied. The parking assessment provided concludes that with the accessibility to public transport the level of car parking provided is appropriate.</i> <i>For traffic refer to the response to Submission 1.</i>
3. Cynthia Fedel 19 Formosa Street, Drummoyne	Privacy and overlooking	<i>On the Formosa Street frontage, the proposed buildings are part two part three level in height. The six storey elements of the proposed development are setback 16.0m from the Formosa Street frontage. Formosa Street has a width of 16.0m, resulting in a separation of at least 32m between the sections of the proposed building that are above three storeys in height and the front boundaries of the Formosa Street properties. These separations are significant and well above the Residential Flat Design Code suggested separation distances to mitigate privacy impacts.</i>
	Vehicle noise	<i>The entry and entries to the car park levels are at grade, minimising the need for acceleration up ramps. Further loading and circulation takes place within the building which has the effect of further limiting noise impacts.</i>

	Height and dwelling density unreasonable	<i>The application is for a scale and density of development consistent with the planning controls prepared for the site and locality. A minor non-compliance with height is proposed caused by lift and pant over runs. The number of storeys proposed is consistent with Council's DCP and intended character for the locality</i>
	Retail access to Formosa Street	<i>The retail commercial tenancies front Church Street and Victoria Road and do not open onto Formosa Street. As such, this is not considered to be an issue.</i>
	Restaurant hours of use	<i>Use of the retail and commercial tenancies is not included as part of the application. Future applications would be required to be lodged for the operation of these premises. These applications will be required to address hours of operation and licensing.</i>
4. Kim Harper 1 Formosa Street, Drummoyne	Traffic	<i>Refer to the response to Submission 1.</i>
	Parking	<i>Refer to the response to Submission 1.</i>
5. TJ and Kristen 25 Formosa Street, Drummoyne	Overshadowing	<i>The solar access study indicates that the Formosa Street properties to the south of the site will be receiving shadow at 9.00am in mid-winter. This is to the front yard and front room of these dwellings only. The shadow quickly recedes such that by 10.30am, the dwellings are unaffected by shadow from the proposal. As such, shadow impacts are considered to be minor and are compliant with Council's guidelines.</i>
	Privacy	<i>Refer to the response to submission 3.</i>
	Reduced height	<i>The proposed height and number of storeys is consistent with the DCP and Council's planning framework in relation to height. Further to this, the proposal steps down from six to three storeys fronting Formosa Street, as required in the DCP.</i>
	On-street car parking	<i>The development substantially reduces the number of driveway crossings on Formosa Street which has the effect of increasing the on-street car parking potential.</i>
6. Christina Paras 5 Renwick Street Drummoyne	Too dense and too high	<i>The application is for a scale and density of development consistent with the planning controls prepared for the site and locality. A minor non-compliance with height and FSR is proposed as a result of the lift and pant over runs. The number of storeys proposed is consistent with Council's DCP and intended character for the locality. The FSR non-compliance is a technicality arising from a desire to provide an improved acoustic environment consistent with State Planning guidelines for development in the vicinity of busy roads.</i>
	Noise pollution during and after construction	<i>Construction hours will be in accordance with any conditions imposed by Council limiting work hours. The application is supported by an acoustic study that has not indicated that road noise will be redirected as a result of the proposed building.</i>

	Traffic congestion	<i>For traffic refer to the response to Submission 1.</i>
7. St Bedes Church, 19 College Street Drummoyne	Parking availability on street	<i>The submission raises concerns over further pressure on the availability of on-street car parking and other public car parking for the St. Bedes Church and related uses. This application has sought to be self-sufficient in the provision of car parking for residents, tenants and visitors. The traffic and car parking assessment supports the level of car parking provided and notes that the number of car parking spaces is appropriate given the location and the availability of public transport servicing the locality.</i>
8. John Scott and Lisa-Anne Morris 7/10 College Street Drummoyne	Object to 6 storey height	<i>The application is for a scale and density of development consistent with the planning controls prepared for the site and locality.</i>
	Loss of views	<i>The application is consistent with the height and number of storeys anticipated for development on the subject site. View impacts from compliant development standards are generally acceptable when considered against the Tenacity Planning Principle. Council will be required to undertake a qualitative assessment of any impact.</i>
	Loss of sunshine	<i>The proposed development is located approximately 50m to the west of the submitter's property. The solar access diagrams which were lodged as part of the development application confirm that the development will not cast any shadow to the property in College Street.</i>
	Privacy	<i>The site of the proposed building is located approximately 50m to the west of the submitter's property, well above the spatial separations recommended in the RFDC to maintain privacy.</i>
	Traffic	<i>For traffic refer to the response to Submission 1.</i>
	Access to breezes	<i>The physical separation between the development site and the location of the submitters is such that access to breezes are unlikely to be impacted.</i>
9. Dean Salakas 73-75 Victoria Road Drummoyne	Rainwater collection	<i>The building will control and manage the disposal of stormwater to Council's drainage system.</i>
	Street trees blocking shop front	<i>Street trees are proposed to be consistent with the DCP vision for the locality. Council could condition any refinements if seen to be necessary.</i>
	No awning within 10m of the boundary	<i>This would be inconsistent with Council's vision to create a continuous weather protected pedestrian zones.</i>
	No wall graphic unless signage also allowed for submitter.	<i>The proposed wall graphic is decorative and not an advertising structure as proposed by the submitter. The graphic is proposed as an interim treatment to the end elevation pending the future redevelopment of adjoining land.</i>
	Car park entry potential confusion	<i>The car park entries will be clearly demarcated avoiding potential confusion to future users.</i>
	Building	<i>The nil setback to Victoria Road is consistent with the</i>

	alignment	<i>desired future character to provide a consistent alignment of active uses to the Victoria Road frontage.</i>
10. NL and PJ McDonald 2 Church Street, Drummoyne	Loss of Privacy	<i>The dwellings proposed diagonally opposite the submitter's property are low rise and oriented to Church Street. The low rise nature of the proposed development in this area in conjunction with the oblique potential viewing angle are considered acceptable in the circumstances.</i>
	On-street car parking impacts and request for amended car parking time restrictions	<i>Changes to parking restrictions are a matter for Council and the local traffic committee.</i>
	Concern over leased apartments	<i>The dwellings will be strata subdivided. The end occupancy would be anticipated to be a mix of owner occupier and leased dwellings.</i>
11. Jane Webster and Jason Kane 13 Formosa Street, Drummoyne	Traffic congestion	<i>Refer to the response to Submission 1.</i>
	Development requiring 314 car is unacceptable	<i>The application is for a scale and density of development consistent with the planning controls prepared for the site and locality.</i>
	Amenity impacts from driveway locations	<i>The car parking is provided at grade off Formosa Street. Access to the lower level via ramps is within the building. Therefore there are no ramp gradients onto the street which would exacerbate engine revving to traverse ramps or angled light spill from vehicles travelling up ramps to impact upon dwellings opposite the site.</i>
	Car park should be in Church Street	<i>A church Street basement location would be in conflict with traffic planning guidelines discouraging access ramps within close proximity to intersections with major roads. Formosa Street provides the safest management for traffic into and out of the site.</i>
	Traffic Study needs to be completed	<i>The application was supported by a traffic assessment. It is also understood that the planning controls formulated for the locality to which the application responds were supported by an analysis of potential impacts including traffic studies.</i>
12. Robert Townsend Owner 17 Formosa Street, Drummoyne	Concerns over the veracity of the traffic impact assessment	<i>Refer to the response to Submission 1.</i>
13. P Fusco No address provided	In support	<i>This submission supports the transition from light industrial to mixed use as proposed.</i>

Comment: It is considered that the applicant has provided clear and reasonable responses to issues raised in submissions. These responses have been summarised in the above table. The proposal is fully compliant with the maximum allowable floor

space ratio however includes minor height non-compliance which has been supported with consideration of the applicant's written request under the provisions of clause 4.6 Exemptions to development standards.

5. ASSESSMENT UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

5.1. Environmental Planning Instruments [Section 79C (1) (a) (i & ii)]

5.1.1. State Environmental Planning Policies

The proposed development is subject to the following State Environmental Planning Policies.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEP)

A calculation of CIV exceeds the estimated cost of works of a development when calculated in accordance with clause 255 of the EP&A Regulation 2000. The DA Construction Budget provided by DCMC Pty Ltd indicates that the estimated cost of works is \$55,114,068 (excluding GST), being a CIV well in excess of \$20 million.

Where the CIV of the proposal exceeds \$20 million, it is development identified under Schedule 4A of the EP&A Act 1979 and it is deemed to be Regional Development in accordance with Part 4 of SRD SEPP. As such, specified consent authority functions for the application, including the determination of the application, are exercised by Joint Regional Planning Panel East and not Canada Bay Council.

State Environmental Planning Policy No. 55 (SEPP No. 55) Remediation of Land.

According to clause 7 of SEPP No. 55 Council may not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The site has undergone previous environmental investigations which indicate contamination is present. Previous land uses pose a risk with schedule 1 activities identified and the investigations have revealed that UST's, groundwater impacts, off site migration, imported fill and storage of materials are all issues likely to affect the site.

An environmental site assessment/feasibility was carried out in 2008 and not assessed against the new NEPM. A range of contaminants have been identified on site including the existence of tanks which would require decommissioning. Further groundwater testing is required and should be used as part of the Remedial Action Plan (RAP) to ensure all characteristics of the site are identified

The applicant's report outlines what could happen but does not define what will happen on site and therefore Council's Environmental Officer requested that an RAP be submitted supporting this application for further assessment including the areas which are highlighted as needing further testing.

The applicant subsequently submitted a Site RAP prepared by DLA Environmental Services and dated September 2015, which states that the site will be suitable after remediation for the purpose for which the development is proposed.

The RAP has been peer reviewed by a NSW EPA Accredited Site Auditor and a letter of interim advice issued by Enviroview, dated 18th February 2016, certifying that the RAP is practical and the site will be suitable after remediation for the proposed use has been submitted to Council.

It is noted that a Construction Management Plan has also been submitted to Council as part of the RAP.

The Environmental Officer reviewed the RAP and Interim Letter of Advice and raised no objection to the application being approved subject to the specific conditions of consent which have been added to the recommendation for approval. For further detail see section 6 below

State Environmental Planning Policy No 65 (SEPP No.65) - Design Quality of Residential Flat Buildings.

The provisions of State Environmental Planning Policy No. 65 (SEPP No. 65) affect the proposed development being a residential flat building of 3 or more storeys. Currently there is no Urban Design Review Panel constituted for Council under the provisions of SEPP 65. However, the proposed development has been assessed against the principles set out in SEPP 65, and the associated Residential Flat Design Code to that SEPP.

Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles in Part 2 of SEPP 65. Following is an assessment of the proposal against the ten (10) design quality principles outlined in SEPP 65.

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Comment: The subject site is located within an established commercial strip along a classified main road and has three street frontages. The primary street frontage is along Victoria Road, with additional side street frontage along Church Street (northern end) and the rear frontage along Formosa Street.

The subject site is currently comprised of a number of existing buildings and structures including a service station and various retail/commercial buildings.

The area opposite the site in Formosa Street at the rear is has an intact low density residential character identified under the LEP as Bourketown Conservation Area.

The subject site and adjoining commercial property are relatively undeveloped. In the context of allowable development in the area as prescribed under the LEP, the

development potential of the site allows for an FSR of 3:1 and a 20 metre/6 storey height limit. The area is currently under transition with several multi-storey mixed use developments emerging along the commercial strip.

The proposal includes ground floor commercial tenancies along the entire Victoria Road frontage. This will maximise street activity with future commercial and retail tenancies of which their use does not form part of the development application. The Church Street frontage will also be improved with new commercial tenancies intended to accommodate food premises. These uses will also require separate development approval.

Five storeys of residential units are proposed above the ground floor commercial/retail level along Victoria Road. The Formosa Street frontage at the rear will include a group of three modest scale 2/3 storey residential flat buildings that are more compatible to the low density residential scale development opposite the site.

However, the building height proposed for development includes a minor non-compliance. The departure from the standard has been supported in this instance considering the applicant's written justification for non-compliance under the provisions of clause 4.6 of the LEP, the constraints of the site against the design concept, and the future desired character for the area and its zone objectives.

The design is considered to respond and contribute positively and appropriately to the site's context.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment: Notwithstanding the relatively minor height non-compliance, the bulk and scale at the front and rear of the site is considered acceptable. The proposal is considered consistent with the desired future character of the area pursuant to relevant planning controls.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment: As discussed above, the bulk and scale presentation along all three street frontages is considered consistent with desired future character.

The Victoria Road building alignment will rise 6 storeys from the street boundary with only relatively minor height non-compliance at each end of the street above the maximum 20m permitted under the LEP.

The building form as viewed from all street frontages is considered well-articulated with both form and colour to reduce its overall bulk and scale appearance. It is considered the proposal will complement surrounding commercial property and at the same time respect the character of the conservation area at the rear as the building forms taper down toward an appropriate scale.

All units proposed will include adequate internal and external amenity and outlook, both at balconies to the units located above ground level and at the ground floor private courtyard areas. The proposal will capitalise on city and water views from the upper level units along the Victoria Street frontage.

The proposed development, as viewed from both private property within the conservation area and from the public domain is expected to sit comfortably within the context of its surrounds.

The proposal is therefore satisfactory with regard to the distribution of building elements and provision of quality internal and external amenity and general outlook.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Comment: Density on the site is controlled by a maximum allowable floor space ratio which is 3:1. The proposal is fully compliant in this regard. The proposal also provides open space areas at ground level.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Comment: The proposal's design is considered satisfactory with regard to making efficient use of natural resources, energy and water layouts, built form, and passive solar design principles.

The proposal promotes ecologically sustainable development in the following ways.

- Orientation, layout and separation of residential units, aiming to maximise solar access throughout the day and providing cross flow ventilation to all units with the use of a cross-flow natural ventilation system as documented in the approved plans
- Thermal mass construction in association with passive design principles
- Waste Management Plan strategy as conditioned
- Compliance with BASIX requirements as conditioned

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Comment: The applicant has submitted a landscape plan indicating adequate landscape provisions. Council's Landscape Architect reviewed the original submission and raised issue with the species selected. The applicant has subsequently revised the landscape concept with appropriate species for the area.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility

Comment: The proposal has adequately followed this principle with regard to access to sunlight, natural ventilation, visual and acoustic privacy, private spaces and outdoor space.

The site is generally orientated along the north-west/south-east axis and ensures good solar access and natural ventilation throughout the day to the majority of units. As discussed above, this is assisted by the natural ventilation system proposed to ensure all single aspect dwellings include natural cross ventilation. All rooms are adequate in size with logical floor layouts and access to external areas and basement parking/storage either directly by stairs and/or by lift access.

The physical separation of primary living areas ensures adequate privacy between each proposed unit. With regard to privacy between the proposed unit building and surrounding residential development, the proposal is sufficiently separated so as not to result in any significant impact.

The close proximity of the subject site to public recreational parks and facilities in the area and public transport will provide additional amenity to future occupants.

Principal 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment: Entry to each residential unit is facilitated by security lobbies at each floor level.

Most residential units permit overlooking of the public domain from balconies and living areas.

Principal 9: Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Comment: The proposal will add a good mix of residential housing stock to the local area totalling (164) units including (56) x one bedroom units, (92) x two-bedroom units and (16) x three-bedroom units.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Comment: The proposal is considered to be appropriately designed in a contemporary style that complements surrounding development including commercial along the Victoria Road shopping strip and lower density residential at the rear along Formosa Street. The colours and materials selected and conditioned are also considered appropriate and complementary to surrounding development.

Further to these design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled *Residential Flat Design Code (RFDC)*. A detailed analysis of the proposed development against this Code has been carried out and is attached to this report.

PART 01 LOCAL CONTEXT		
<i>Primary Development Controls</i>		
<i>Building Height</i>	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit	Height includes minor non-compliance however applicant's clause 4.6 written request to vary control is supported. FSR is fully compliant
	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use. (2.7 for habitable rooms, 2.4 non-habitable rooms and 1.5 for attics) (Habitable Rooms include: any room or area used for normal domestic activities, including living, dining,	Minimum to 2.7m achieved

	family, lounge, bedrooms, study, kitchen, sub room and play room)							
<i>Building Depth</i>	In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose more than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	Approximately 10m max.						
<i>Building Separation</i>	<p>Design and test building separation controls in plan and section.</p> <p>Buildings up to 12m it is recommended</p> <table><tr><td>12 metres</td><td>between habitable rooms & balconies</td></tr><tr><td>9 metres</td><td>between habitable rooms/balconies and non habitable rooms</td></tr><tr><td>6 metres</td><td>between non habitable rooms</td></tr></table> <p>*Habitable room any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room</p> <p>**Non-habitable room spaces of a specialised nature not occupied frequently or for extended periods, including bathrooms, toilets, pantries, walk-in wardrobes, corridors, lobbies, photographic darkrooms and clothes drying rooms.</p>	12 metres	between habitable rooms & balconies	9 metres	between habitable rooms/balconies and non habitable rooms	6 metres	between non habitable rooms	<p>N/A. The main building along Victoria Road is distributed over a single mass and divided into single aspect units.</p> <p>The Formosa Street units address Formosa Street only.</p>
12 metres	between habitable rooms & balconies							
9 metres	between habitable rooms/balconies and non habitable rooms							
6 metres	between non habitable rooms							
	<p>Test building separation controls for daylight access to buildings and open spaces.</p> <p>Developments that propose less than the recommended distances apart must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved</p>	As above The proposal is considered acceptable in terms of daylight access, urban form and visual and acoustic privacy						
<i>Street Setbacks</i>	Identify the Desired Streetscape Character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	Street setbacks proposed are consistent with the streetscape character of all three street frontages						
	Test street setbacks with building envelopes and street sections.	As above						
<i>Side & rear setbacks</i>	Relate side setbacks to existing streetscape patterns.	Consistent						
<i>Floor space ratio</i>	Test the desired Built Form outcome against proposed floor space ratio to ensure consistency with building height; building footprint; the three dimensional building envelope and open space requirements.	FSR is fully compliant. Acceptable building setbacks and height. Adequate open space provided with easy access to nearby public open space and foreshore						

PART 02
SITE DESIGN

Site Configuration

<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	The site does not provide the minimum deep soil zone. The difficulty is its location within a commercial strip and required ground level commercial tenancies and basement parking. The proposal does however provide some deep soil zones within the setback of the Formosa Street frontage comprising 120m ² . Additional landscape area of 120m ² located on the Formosa Street frontage adjacent to the commercial carpark
<i>Open Space.</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent	The design and site restrictions limit provision for communal open space. Ground floor units are provided with private open space courtyards and private balconies to units above.
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	As discussed above.
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25sqm; the minimum preferred dimension in one direction is 4 metres. (see Balconies for other private open space requirements)	Complies.
<i>Safety</i>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	As conditioned
<i>Visual Privacy</i>	Refer to Building Separation minimum standards	N/A
<i>Pedestrian access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	Good access provided directly from car park to units with stairs and lift
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	Standard conditions applied
	Provide barrier free access to at least 20 percent of dwellings in the development.	Standard conditions applied
<i>Vehicle access</i>	Generally limit the width of driveways to a maximum of six metres.	Conditioned in accordance with AS standards
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	All vehicular access is directly off Formosa Street and away from pedestrian entry points

PART 03 BUILDING DESIGN		
<i>Building Configuration</i>		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	8-10m - acceptable
	The back of a kitchen should be no more than 8 metres from a window.	<8m
	Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day lighting and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation).	As above
	If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability) - 1 bedroom apartment 50sqm - 2 bedroom apartment 70sqm - 3 bedroom apartment 95sqm	Apartment sizes are acceptable
<i>Apartment Mix</i>		
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	Complies
<i>Ceiling Heights</i>	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired. 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. Attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum – ceiling slope.	Min. 2.7m
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Adaptable units at upper levels with direct access from lifts at parking levels - acceptable
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	All ground floor units are provided with private open space
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of	Approx. 5 units accessible from each length of corridor either

	units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: for adaptive reuse buildings where developments can demonstrate the achievement of the desired streetscape character and entry response where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	side of core
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: studio apartments 6m ³ one-bedroom apartments 6m ³ two-bedroom apartments 8m ³ three plus bedroom apartments 10m ³	Indicated on drawings and conditioned to comply
<i>Building Amenity</i>		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.	Complies
	Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	No single aspect has an exclusively southern aspect
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically, range from 10 to 18 metres.	Complies
	Sixty percent (60%) of residential units should be naturally cross ventilated.	60% - Complies
<i>Building Performance</i>		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	Waste Management Plan supplied and included as condition of consent
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	N/A

Comment: Given the above assessment against the SEPP, it is considered that the proposal performs adequately with recommended conditions of consent.

The applicant has also submitted a Design Verification Statement from a qualified designer and registered architect verifying that the design quality principles set out in

Part 2 of the State Environmental Policy No 65 – Design Quality of Residential Flat Development have been achieved for this proposal. The statement was prepared by Robert Mirams Director from Fender Katsalidis Mirams Architects, dated 2 March 2015.

Review of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Buildings

A comprehensive review of SEPP 65 & Residential Flat Design Code was carried out and finalised in 2015. The review resulted in a number of changes to the policy, including the overhaul of the Residential Flat Design Code into the *Apartment Design Guide*.

The changes were made to support further improvements in apartment design, and to help improve housing affordability and supply.

The changes to SEPP 65 were notified on the NSW legislation website on 19 June 2015, and commenced on 17 July 2015.

The changes to SEPP 65 include savings provisions. For apartment development applications lodged prior to 19 June 2015, the [Residential Flat Design Code](#) applies.

For apartment development applications lodged after 19 June 2015 and determined after 17 July 2015, the *Apartment Design Guide*, along with the changes to SEPP 65 apply.

This application was submitted prior to 19 June 2015 Amendment No 3 and therefore the the [Residential Flat Design Code](#) applies.

State Environmental Planning Policy - Building Sustainability Index (2004)

To encourage sustainable residential development, all new dwellings must comply with the provisions of State Environmental Planning Policy – Building Sustainability Index (BASIX).

The proposed development has achieved full compliance with the BASIX commitments as they have reached targets of 44 out of 40 for water and 25 out of 20 for energy. The schedule of BASIX Commitments is specified within the BASIX Certificate No. **605290M** and is included in the recommended conditions of consent.

State Environmental Planning Policy (Infrastructure) 2007

Division 17 Roads and Traffic of the ISEPP sets out requirements for development fronting classified roads. As the site has frontage to Victoria Road, which is a classified road, several of the provisions contained within Division 17 of the ISEPP apply to the proposed development as detailed below.

Development with frontage to classified road (Cl. 101)

Clause 101 requires that consideration be given to the impact of any proposed access to a classified road.

It requires that a consent authority not grant consent to a development on land that has frontage to a classified road unless it is satisfied that vehicular access, where practicable, is provided by a road other than a classified road. In accordance with clause 101, access to the proposed development will be provided from Formosa Street and not from Victoria Road.

Clause 101 further requires that the consent authority to be satisfied as to the following:

- The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - the design of the vehicular access to the land, or
 - the emission of smoke or dust from the development, or
 - the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The applicant's proposal is supported by the Traffic and Parking Report prepared by Coston Budd Hunt & Kafes Pty Ltd. Council's Traffic Engineer has reviewed this report and supported the proposal subject to conditions of consent. For further detail in this regard see discussion below under section 6.

Clause 104 via Schedule 3 identifies development which is to be referred to the RMS. Development with more than 200 car parking spaces with access to any road requires referral. Accordingly as more than 200 car parking spaces are proposed, a referral of the application under clause 104 was required. See Roads and Maritime comments below under section 6.

The proposal will be designed to comply with the internal noise criteria of the ISEPP due to noise emanating from traffic on Victoria Road and this has been assessed in the Acoustic Assessment Report prepared by Renzo Tonin and Associates that has been submitted to support the Development Application. Conditions of consent have been applied to ensure required noise mitigation is implemented for the development.

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

Clause 102 requires consideration of road and noise vibration for development that is adjacent to a road that has an annual average daily traffic (AADT) volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and requires that the following noise levels (LAeq levels) are not exceeded for residential development:

- In any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am, anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

This clause applies to the proposal as Victoria Road has an AADT of more than 40,000 vehicles. The impact of road noise and vibration has been assessed in the acoustic report prepared by Renzo Tonin and Associates which has recommended glazing treatment to the worst affected facades to ensure suitable indoor amenity is achieved.

Traffic-generating development (Clause 104)

Clause 104 and Schedule 3 of the ISEPP identifies traffic generating development that is required to be referred to the Roads and Maritime Service (RMS) for consideration.

Under Schedule 3 and clause 104, residential development proposing 75 or more dwellings on a road that connects to a classified road and is within 90m of that connection, is required to be referred to the RMS.

As the proposal accommodates 164 dwellings, as well as commercial floor space, it is captured by Clause 104 and Schedule 3 and required referral to RMS.

Comment: The application was referred to Roads and Maritime for review and to seek concurrence under in accordance with Section 138 of the Roads Act. 1993. For further detail and discussion in this regard, see comments and recommendations/conditions below under section 7.

Council's Traffic Engineer has reviewed the application and not raised objection to approval subject to conditions of consent. See section 7 below.

The applicant has included an Acoustic Assessment prepared by Renzo Tonin & Associates, dated 13 February 2015. The report concludes that appropriate controls can be incorporated in to the design to achieve compliance with relevant standards. The Assessment also points out the noise benefits of enclosing Victoria Road facing balconies as winter gardens and includes recommendations towards achieving compliance for internal living spaces. The Acoustic Assessment and its recommendations, included in the list of approved plans and documentation, form part of this consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site falls within the map area shown edged heavy black and hence is affected by SREP (Sydney Harbour Catchment) 2005.

Clause 20(a) states that consent authorities must take into consideration the matters in Division 2 prior to the granting of consent.

The site is separated from the foreshore by over 40m and therefore unlikely to have any significant visual or ecological impact upon the waterway.

5.1.2. Local Environmental Planning Instruments

The proposed development, defined as part *residential flat building* part *commercial premises* is permissible with the consent of Council, within a *B4 Mixed use* zone under Canada Bay Local Environmental Plan 2013. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

Statutory Standards (LEPs, PSO, IDOs)

Control	Standard	Proposed	Compliance
Clause 2.2 Zoning of Land to which Plan applies	<i>B4 Mixed use</i>	<i>residential flat building and commercial premises</i>	Yes
Clause 4.3 Height of buildings	Clause 4.3(2) maximum height shown for the land on the Height of Buildings Map is 20m	Max. 21.11m	No (See applicant's clause 4.6 written request to vary standard)
Clause 4.4 Floor Space Ratio	3:1	0.299:1	Yes

As indicated in the compliance table, the proposed development does not comply with the building height standard clause 4.3 of the Environmental Planning Instrument. The applicant has submitted to Council a written request for departure from the development standard under the provisions of clause 4.6 – Exemptions to development standards – Building height (see summary of applicant's written request in italics below under this section. Refer to the applicant's full document for further detail and section diagrams. The clause 4.6 written request forms part of this consent in the list of approved plans and documents).

Clause 4.6 - Exemptions to Development Standards

- 1) *The objectives of this clause are:*
 - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3) *Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 4) *Consent must not be granted for development that contravenes a development standard unless:*

- (a) (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- 5) *In deciding whether to grant concurrence, the Director-General must consider:*
- a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - b) *the public benefit of maintaining the development standard, and*
 - c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- 6) *Consent must not be granted under this clause for a subdivision of land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4 if:*
- a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- 7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- 8) *This clause does not allow consent to be granted for development that would contravene any of the following:*
- a) *a development standard for complying development,*
 - b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - c) *clause 5.4.*

Clause 4.6 allows Council to vary a control where a written request is made by an applicant demonstrating that two criteria are met. The criteria to be satisfied are that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard.

The objectives of the provision would also need to be satisfied and are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

As such, Council should only exercise this power when it will result in a better outcome for the development if the standard is breached. Council cannot permit the breach of the standard unless it is satisfied that the written request by the applicant

adequately addresses the two criteria, the development will be in the public interest because it is consistent with the objectives of the particular standard and those for the zone and the concurrence of the Director-General has been obtained. It is noted that Council has been advised by the Department of Planning that it can assume the concurrence of the Director-General when making a determination of the application.

Applicant's written request

'In the circumstances of this case, the provision of strict numerical compliance would be unreasonable due to the following:

1. The proposal remains consistent with the objectives of the B4 Mixed Use Zone, despite the non-compliance with the height control as demonstrated in the assessment of the objectives below:

a) To provide a mixture of compatible land uses.

The proposal will incorporate a shops, café, restaurant and commercial premises at ground floor with residential accommodation provided above. The spaces are well planned and organised to avoid potential conflicts and afford appropriate servicing and occupation for the range of likely land uses.

b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The proposal will provide additional retail, office, business and community employment opportunities at a location that is highly accessible by walking, cycling and public transport. The spaces are suitable for a range of appropriate uses in this transitional location between a busy arterial road and low density residential development.

2. The proposal remains consistent with the objectives of the building height standard outlined in subclause 4.3(1) despite the non-compliance demonstrated below:

(a) to ensure that buildings are compatible with the desired future character in terms of building height and roof forms,

The height of the development is consistent with the height and scale of recently approved developments within the vicinity of the site. The number of storeys proposed at six (6) is consistent with the scale and configuration of development envisaged for the locality in the applicable DCP. The non-compliance is predominantly associated with the roof plant which are set in from the site boundaries and will not be visually dominant features.

The numerical non-compliance is a result of the site topography and the varied site slope. The proposed building, despite the numerical non-compliance remains compatible with the scale of existing and intended development and does not result in additional development density being achieved.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

The numerical non-compliance will not detrimentally impact upon adjoining development having regard to views, privacy and solar access. The design responds by providing a low rise interface to Formosa Street to avoid impacts such as overshadowing and to respect the Conservation area status of these properties.

3.3 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The objects set down in Section 5(a)(i) and (ii) are as follows:

“to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land...”*

Compliance with the standard would hinder the attainment of the objects of section 5(a)(i) and (ii) of the Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, and to promote and coordinate orderly and economic use and development of land.

Strict compliance with the development standard would not result in discernible benefits to the amenity of adjoining sites or the public. Further, the proposal satisfies the zone and development standard, and principally maintains the scale of the existing building. The development as proposed is consistent with the provisions of orderly and economic development. Strict compliance with the standard is not required in order to achieve compliance with the objectives.

3.4 Is a development which complies with the standard unreasonable or unnecessary in the circumstances of the case?

A development that strictly complies with the 20m height standard is unreasonable or unnecessary in this circumstance for the following reasons:

- *The non-compliances with the height limits are marginal and relatively irregular. This is primarily attributed to the variable ground level of the site and the appropriate desire to provide regular, accessible entries to the Victoria Road frontage;*
- *Removing the non-compliances would not alter the perceived height of the building as viewed from the public domain or surrounding development;*
- *The non-compliance does not result in additional FSR or development density;*
- *There is no discernible difference in the impacts between a building that strictly complies with variable height limits development including:*
 - *Visual and acoustic privacy impacts: The parts of the building which do not comply with the height limit primarily relate to plant and lift over runs;*
 - *Visual impacts: Due to the non-compliances being marginal and the non-complying components of the building setback, there is a nominal difference in visual impacts between the proposed building and complying building; and*
 - *Overshadowing impacts: There is no difference in shadow impacts of a compliant building and the proposed building.*

3.5 Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes. In the circumstances of the case, there are sufficient planning grounds to justify contravening the development standard being:

- *The proposal satisfies the objectives of the B4 Mixed Use zone and the objectives of the building height standards as described in Section 3.2 above;*
- *The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss;*
- *The proposed non-compliances with the height controls are minor and do not contribute to a discernible increase in the overall bulk and height of the proposed building. In the case of the pergola and lift overrun, these structures are well-setback from the edge of the building and will not be visible;*
- *The non-compliance with the standard does not result in a scale of building that is out of character with the surrounding development as the proposal retains the existing heritage building and the parapet height;*
- *The proposed development is generally compliant with the controls, or the intent of the controls, contained in the Canada Bay Development Control Plan 2012; and*
- *The development as proposed is consistent with the provisions of orderly and economic development.*

3.6 Is the variation well founded?

Yes. For reasons outlined in the preceding sections of this submission, the variation to the height control is well founded as compliance with the standard is unreasonable as the development does not contravene the objects specified within 5(a)(i) and (ii) of the Act and B4 Mixed Use zone.

A development that strictly complies with the standard is unnecessary in this circumstance as no appreciable benefits would result by restricting the entire building to each of the variable height limits.

3.7 Does the variation raise any matter of significance for State or regional planning?

The minor non-compliance with the numerical height of building development standard does not raise any matter of significance for State or regional planning.

3.8 Is there a public benefit in maintaining the development standard?

The public benefit is best served in this instance through the facilitation of orderly economic development of the site that is consistent with the purpose for which it has been rezoned and the DCP controls applying to the site. The numerical non-compliance is not delivering additional development density, rather a response to the site constraints leading to the architectural solution proposed. Numerical non-compliance could be achieved through a reduction in floor to ceiling heights, however this would result in a compromised amenity of the building contrary to sound planning practice. As has been demonstrated the numerical non-compliance does not result in adverse amenity impacts to surrounding development.

4. Conclusion

Development standards are a means of implementing planning purposes for a development or area.

The building height is considered appropriate to the context and circumstances of the site, and does not result in a scale of development that is out of character with the surrounding development.

A development strictly complying with the numerical standard would not discernibly alter the scale of the building or improve the amenity of surrounding development or the public domain.

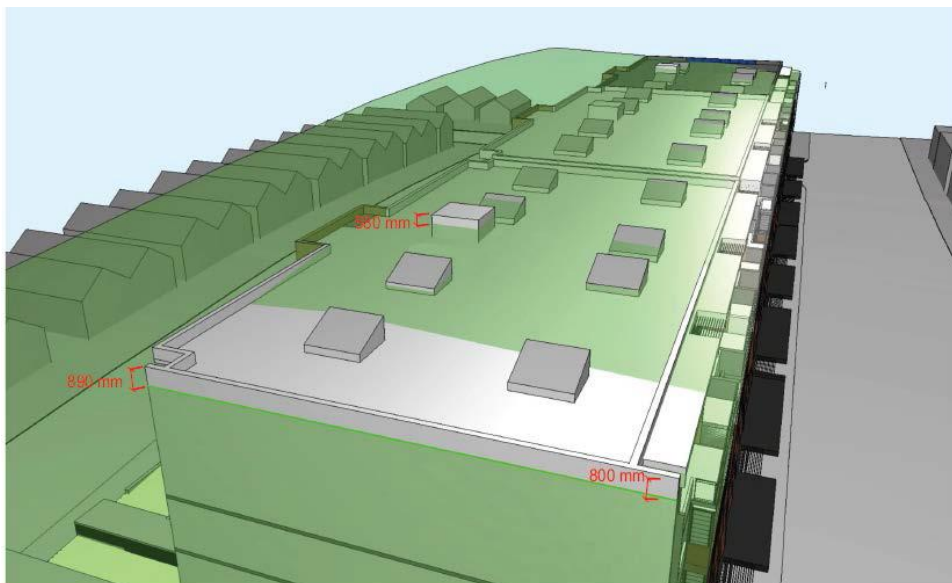
This submission satisfies the provisions of 4.6(3)(a), 4.6(3)(b) and 4.6(4)(a)(i) of the CBLEP 2013 as it has been demonstrated that compliance with the height development standard is both unnecessary and unreasonable in the circumstances of this case and there is sufficient planning grounds to justify contravening the standard.'

Comment: In consideration of the applicant's written request to vary the FSR standards, it is noted that it satisfactorily addresses the two criteria, namely in that the applicant has proposed that complying with the development standard is unnecessary in the circumstances of the case as the objectives of the LEP and DCP are satisfied by the proposal, and that there are sufficient environmental planning grounds to justify contravening the standard.

The applicant's written request is considered well founded against the relevant statutory provisions and refusal in this instance on the basis of a total approximate 5.5% variation, at the worst, (see Drawing No. DA 7.3 Height Plane Analysis (revision 02, revised 10/09/2015), prepared by Fender Katsalidis Mirams (Sydney) Architecture for a visual representation), is both unreasonable and unnecessary.

The applicant's written request includes diagrammatic sections drawings indicating sections of building structure that will exceed the maximum height as measured from the existing ground line along the site which tapers off to either side from the middle.

In addition to the written request with diagrams, the applicant has submitted 3D modelling of the development (see extracts from the applicant's drawing below) to demonstrate the non-compliant components of the building from a different perspective. The visual aid assists in comparing the extent of non-compliance across the entire development.



Height plane showing minor non-compliance with height control viewed from the south



Height plane showing minor non-compliance with height control viewed from the north

It is considered that the diagrams above demonstrate the building elements that protrude beyond the transparent green height plane are limited to relatively minor areas. These areas include the extreme ends of the building, to a lesser extent on the northern end, and the tops of some of the skylight structures which are setback from the edge of the building. Also protruding beyond the height plane are minor sections of the tops of the lift shafts, also located in from the edges of the main building and not likely to be seen within the immediate vicinity.

It is considered that this minor height non-compliance is unlikely to result in any noticeable environmental impacts. It is also considered that maintaining the proposed height line along the length site also assists in creating a more coherent and balanced architectural design as it presents to the Victoria Road elevation.

Heritage conservation (Clause 5.10)

The objectives of Clause 5.10 are as follows:

- (a) to conserve the environmental heritage of Canada Bay,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The site is not identified as an archaeological site or Aboriginal place of heritage significance, nor is it known to contain Aboriginal objects of heritage significance.

It is recommended that appropriate conditions be imposed on any future consent outlining the measures to be taken during the demolition, excavation and construction phases should any potential archaeological relics or Aboriginal objects be encountered.

The LEP does not list the site as a heritage item and it is not located within a conservation area. However, the site is located adjacent to the Bourketown Conservation Area which is listed in Schedule 5 of the CBLEP 2013 and identified on the Heritage Map.

The applicant has also identified that the nearest individual heritage item is St Bedes Anglican Church (I90) to the west at No. 14 Church Street. The church does not face the site and is separated from its rear boundary to the Formosa Street boundary of the development site by approximately 47m behind the row low density housing located on Formosa Street opposite the site. The church is not expected to be significantly impacted on as a result of the proposal given its separation.

Council's Heritage Advisor has reviewed the application and recommended changes to the design to better relate to the conservation area opposite. These design changes have been adopted by the applicant in the final amended plans and are considered satisfactory.

It is noted however that condition of consent is included for an alternative face brick to the boundary fence proposed along Formosa Street frontage. For further discussion in this regard see section 6 below.

5.2. Draft Environmental Planning Instruments [Section 79C (1) (a) (i & ii)]

There are currently no relevant Draft Environmental Planning Instruments applicable to the proposed development.

5.3. Development Control Plans, Council Policies or Codes [Section 79C(1)(a)(iii)]

The proposed development is affected by the provisions of the City of Canada Bay 2013. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

Non Statutory Standards (DCP, Codes, Policies)

The relevant controls in Part 7 of the DCP apply to permissible development in mixed use areas and neighbourhood centres. It contains general controls that apply to all commercial development and specific controls that that apply to selected commercial precincts.

7.1 General Objectives

O1 To facilitate the development of ALL commercial areas in a way that is economically sustainable and environmentally sensitive

O2 To encourage the revitalisation of the commercial areas by enabling mixed use development including residential in certain areas

O3 To ensure development contributes to the improvement and amenity of public spaces

O4 To maintain the heritage values through appropriate alterations and additions

Comment: The development includes a group of four separate buildings. The main building includes a contemporary multi storey mixed use development along the Victoria Road commercial strip. The building includes several commercial tenancies accessed directly off Victoria Road and five levels of residential units above. The building forms at the rear of the site transition down to a more appropriate lower scale residential unit development made up of three separate buildings. These buildings

address Formosa Street and are opposite the low density housing in the Bourketown Conservation Area.

7.2 Building Design and Appearance

Objectives

O1 To ensure infill development is well articulated, makes a positive contribution to the streetscape and responds to local urban character

Comment: Multi storey mixed use development is included along the Victoria Road commercial strip which is consistent with new and desired future development. The Victoria Road elevation is well articulated and modulated into components and materials to reduce its overall bulk and scale appearance.

The rear buildings taper down to a lower scale that is more compatible to the low density housing opposite the site in Formosa Street.

O2 To ensure development presents a clear and visually interesting address to the street

Comment: The proposal clearly addresses all three street frontages of the site each with an individual character.

O3 Alterations and additions respect the identified heritage and conservation values of the place

Comment: N/A

O4 To retain the use of awnings as visually dominant and coordinating townscape features.

Comment: Awning components are provided to the Victoria Road frontage. They correspond to individual commercial tenancies and allow for street trees to be established.

O5 To encourage awnings which are lighter and more elegant in appearance to allow more light through to shop fronts

Comment: As above. The broken and stepped lightweight metal clad awning components achieve a lighter appearance.

O6 To ensure new development maintains a pedestrian scale, and provides weather protection at street level

Comment: The Victoria Road frontage provides a human scale and weather protection with awnings. The Formosa street side is more consistent in scale and setting with a traditional residential street which is more appropriate opposite the low density conservation area on that side.

Controls

Building massing

C1 Building mass should maintain the prevailing vertical character found in Canada Bay's business centres.

C2 Disruption of the street wall massing is not permitted

Comment: The proposal is consistent in this regard. The zero front building alignment along Victoria Road and the vertical rise of the development is consistent with the Drummoyne shopping strip.

Building facades

C3 Where development has two (2) street frontages the streetscape should be addressed by both facades. Development should provide a definitive street address to both facades when fronting a main road and a smaller road or car park

Comment: The proposal is designed to address all three street frontages. The Victoria Road is the primary commercial address, Church Street is the secondary commercial address and the Formosa Street frontage consists of lower scale residential components more complimentary to the low density residential development in the conservation area opposite.

Roofs and parapets

C4 In commercial areas where parapet skylines predominate, infill development should also include parapet skylines

Comment: The proposal includes parapet detailing that is consistent with existing and emerging development along the Drummoyne shopping strip.

Awnings

C5 Refurbishment or redevelopment of a building should include the provision of an awning of a similar height, width and general appearance to that of adjoining contributory awnings

C6 Awnings should be reinstated where there is evidence that they were originally fitted or where there is a break in a continuous run of awnings

C7 New awnings on corner buildings should wrap around into side streets

C8 New awnings should be no higher or lower by 600mm than neighbouring awnings, for continuity

C9 Awnings are to be flat or near flat in shape. Raised or curved awning structures are not permitted

C10 Eaves and fascias are to be flat or near flat in shape

C11 Awning fascias are to be a maximum 300mm high including any added on signage and in keeping with the scale and character of the building

Comment: The proposal includes footpath awning components. Relevant numerical requirements above have been incorporated as conditions of consent.

Verandahs and balconies

C12 The reinstatement of verandahs is encouraged where evidence of the original structure exists

C13 Balcony balustrades should be of a light open material. Where possible, balustrades are to match predominant examples within the streetscape

C14 Existing verandahs and balconies should be retained and not infilled

Comment: The reinstatement of verandahs is not applicable however the proposed residential units along Victoria Road will include winter garden type balcony areas to assist with traffic noise reduction and the two upper most levels will include open balconies. The proposal is acceptable in this regard.

Car parking

C15 On-site car parking should be located below ground level where possible or located within the building and well screened, or at the rear off a laneway

Comment: The majority of vehicular parking is to be provided in the basement levels below ground. The commercial parking component is proposed at grade however it is located behind the buildings and under a podium level and will therefore not be visible from either Victoria Road or Formosa Street.

Public utilities

C16 For new development and substantial alterations to existing premises provision must be made for connection to future underground distribution mains

Comment: As conditioned.

7.3 Retail Frontages

C1 New shopfronts should be designed to make maximum use of vertical elements, i.e. windows should emphasise a vertical proportion (height greater than width)

C2 Original early shop fronts in existing buildings should be retained and conserved

C3 If security shutters are required, they should be visually permeable (75% permeability) to allow viewing of windows and allow light to spill out onto the footpath. Open grilles (concertina style) are preferred

Comment: The new shopfronts are designed with vertically proportioned glazed panels consistent with emerging development and sympathetic to traditional proportions.

7.4 Visual and Acoustic Privacy

C1 Openable first floor windows and doors as well as balconies should be located so as to face the front or rear of the building.

Comment: Complies

C2 Where it is impractical to locate windows other than facing an adjoining building, the windows should be off set to avoid direct view of windows in adjacent buildings

Comment: N/A

C3 Where the visual privacy of adjacent properties is likely to be significantly affected from windows, doors and balconies, or where external driveways and/or parking spaces are located close to bedrooms of adjoining buildings, one or more of the following alternatives are to be applied: (a) Fixed screens of a reasonable density (minimum 75% block out) should be provided in a position suitable to alleviate loss of privacy; (b) Where there is an alternative source of natural ventilation, windows are to be provided with translucent glazing and fixed permanently closed; (c) Suitable screen planting or planter boxes are to be provided in an appropriate position to reduce the loss of privacy of adjoining premises: Note: This option will only be acceptable where it can be demonstrated that the longevity of the screen planting will be assured. (d) Windows are off-set or splayed to reduce privacy effects; and (e) Windows have sill heights of 1.8 metres or more above floor level or fixed translucent glazing to any part of a window less than 1.8 metres above floor level.

Comment: There are no apparent impacts to adjoining residential properties as a result of the proposed development.

C4 New development containing dwellings along a major road or along a railway corridor should incorporate noise attenuation measures

Comment: The proposal has been designed with enclosed winter gardens for the Victoria Road facing units over the first three levels above ground. The enclosed winter gardens will assist with reducing traffic noise. Further the development is bound by the approved Acoustic assessment and its recommendations and other applied conditions of consent relating to noise mitigation.

7.5 Safety and Security

C1 Pedestrian ways and car parking, particularly those used at night, are to be direct, clearly defined, visible and provided with adequate lighting

Comment: Plans indicate compliance.

C2 Landscaping and site features that might block sight lines are to be minimised

Comment: Not likely.

C3 Shadows and concealment spaces are to be minimised

Comment: Plans indicate compliance.

C4 All entrances and exits are to be made clearly visible

Comment: Plans indicate compliance.

C5 Windows etc. should be arranged to overlook public areas and streets to maximise surveillance

Comment: Plans indicate compliance.

C6 Developments generating a significant amount of pedestrian movement throughout the car park (such as shopping centres or office car parks) are to establish clear and convenient pedestrian routes. These routes must minimise the number of points which cross vehicle paths and be appropriately marked to heighten driver awareness (e.g. painting, use of contrasting materials, lighting and/ or signage).

Comment: Reviewed by Council's Traffic Engineer and accepted with conditions of consent relating to traffic and parking generally.

C7 Pedestrian access to buildings should be separate to vehicular access to the site

Comment: Multiple pedestrian access points have been provided for each building component directly from the public domain as well as from basement parking levels with stairs and lifts.

7.6 Daylight and Sunlight Access

Direct solar access (sunshine) to windows of principal living areas and the principal area of open space of dwellings adjacent to commercial zones should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June

Comment: The applicant's shadow diagrams indicate that there are no adjacent residential dwellings that will be impacted on by overshadowing over private open space or primary living areas. Any overshadowing occurs at 9am winter solstice and this is over front yard area to dwellings located opposite the site in Formosa Street.

7.7 Building Envelope Controls and Site Specific Design Controls

Objectives

O1 To ensure front setbacks maintain the continuity of setbacks in the street

O2 Ensure buildings are of a height and scale which is consistent with the character of the area

O3 To maintain the privacy and amenity of adjoining and nearby residential developments

Comment: It is considered that the proposal has adequately addressed the objectives of the building envelope and Site Specific Design Controls for the following reasons:

- The proposal is appropriately built along each of the three street frontages

- The building form transitions in height from the 6 storey building fronting Victoria Road to the two storey building fronting Formosa Street which is opposite the low density conservation area
- The Victoria Street building has a nil setback at ground level to Victoria Street with commercial floor space activating this strip
- The Church Street building has a nil setback to Formosa Street with ground level retail floor space
- The Formosa Street buildings are all residential and have a setback of approximately 3 metres to provide for landscaping and amenity
- The main pedestrian entry to the residential components of the development is at street level from Formosa Street which will focus activity in the street on residential use
- The vertical rise of the building at the Victoria Road alignment is 5 storeys with the 6th storey setback approximately 3m
- The Formosa Street side has a 2 storey building height with a third level setback approximately 5m
- The roof form design includes a parapet edge detail consistent with other development in the commercial area
- Cantilevered footpath awnings have been incorporated

7.8 Parking

Provide adequate car parking without adverse impact to streetscape

Comment: The proposal provides adequate on-site parking that will not be visible from the public domain. All deliveries and waste collection is able to be carried out entirely within the site and out of view from the public domain.

As indicated in the assessment above, the proposed development has achieved satisfactory compliance with the non-statutory controls applicable to the site and is considered acceptable in this regard.

5.4. **Likely Impacts of the Development [Section 79C (b)]**

Overshadowing

Council's City of Canada Bay Development Control Plan 2013 states the following controls in relation to overshadowing and solar access. The controls have been considered against the proposal. The objectives of these controls is to maximise solar access to living areas and private open space in order to improve residential amenity and to minimise the amount of overshadowing of neighbouring developments and outdoor spaces to maintain their amenity.

5.2.3 (C1) New buildings and additions are sited and designed to maximise direct sunlight to north-facing living areas and outdoor recreation areas.

5.2.3 (C2) Direct sunlight to north facing windows of living areas and private open space of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.

Comment: The subject site is orientated along the north-west/south-east axis.

The applicant has submitted shadow diagrams indicating that no surrounding residential property will be significantly affected from overshadowing caused by the

development during Winter Solstice June 21st. The greatest overshadowing impact to surrounding residential property will occur at 9am when shadow will fall across Formosa Street and onto the front yards and facades of houses opposite the site. By 12 noon no shadow will affect residential property. It is noted that overshadowing will not impact the rear private open spaces of these dwellings.

There are no further issues raised with regard to over shadowing. The proposal is considered acceptable in this regard.

Privacy

Visual and acoustic privacy has been adequately considered in the design of the proposal.

Proposed rear courtyards to ground floor units address Formosa Street and are opposite the low density residential area. The private courtyards complement the residential setting in the street and at the same time provide future residents of the proposed development privacy and security with the articulated part face brick/part palisade fencing.

For further discussion with regard to amenity impacts refer to SEPP 65 assessment under section 5.1.1 of this report.

The proposal is considered satisfactory with regard to privacy.

View Corridors/View Sharing

There are no apparent views or view corridors to be affected from the perspective of the low density housing opposite the site in Formosa Street.

There has been one submission from a unit owner at No. 10 College Street, which is an older style circa 1970s 4 storey residential flat building, where some distant district/harbour views are captured. For these views to be preserved it would require the development site to be restricted to two or less storeys. This would not be a reasonable expectation given the site has a maximum allowable building height of 6 storeys and 20m. Further, the views in question are captured across the residential allotments in Formosa Street, over Formosa Street and across the subject site which is currently underdeveloped. Preserving these views is not considered a reasonable option in this instance given it would require a significant restriction to the development potential of the site and contrary to Council's desired future character of the area.

Traffic generation, parking and loading

Part 7.8 of the CBDPCP prescribes the objectives and controls for parking provisions as they relate to Mixed Use development.

The objectives under this section are as follows:

O1 To ensure development incorporates adequate parking

O2 To ensure parking areas do not detract from the streetscape

Comment: The proposed development provides adequate parking consistent with the parking controls applicable to the site under Council's DCP parking requirements.

The amended proposal provides a total of 319 car parking spaces. Parking is to be allocated as 48 restaurant/café spaces, 18 commercial spaces, 27 visitor spaces and 226 resident spaces.

Refer to comments provided by Council's Traffic Engineer under section 6 below for further detail.

It is noted that there is a minor shortfall in parking spaces as required by the current DCP however the parking provisions are in excess of RTA Guidelines and are supported by Council's Traffic Engineer subject to conditions of consent.

Noise Impact

The proposal has significant separation from other residential property. For further discussion with regard to building separation refer to SEPP 65 assessment under section 5.1.1 of this report.

The proposal also includes residential units along a main arterial road. All residential units fronting Victoria Road should comply with Australian Standard 3671: Acoustics—Road Traffic Noise Intrusion and details should be provided prior to the issue of a Construction Certificate. This requirement has been included in the conditions.

A condition of consent is also included to ensure that recommendations in the approved Acoustic report are adopted and any required design change made prior to the issue of Construction.

Floor Space Ratio (FSR)

The proposal is fully compliant with regard to the maximum allowable floor space ratio of 3.0:1, as prescribed under the provisions of *Canada Bay Local Environmental Plan 2013*. The proposal includes an FSR of 2.99:1 as indicated in the compliance table above.

Setbacks

New infill development is required to maintain a zero setback along the Victoria Road frontage with a 5 storey rise and a 6th storey permitted however must be set back. The proposal is fully compliant in this regard.

The maximum building height at the Formosa Street alignment is 2 storeys, stepping up to 3 storeys. The 3 storey component is to be set back a minimum of 5 metres from the 2 storey component on Formosa Street. The proposal does comply with the rear setbacks which are intended to respect the transition in building bulk from the commercial side of the site to the low density context in Formosa Street.

The proposal is considered acceptable with regard to setbacks required for desired future development in the *B4 Mixed use* zone.

Streetscape and urban character/Bulk and Scale/Building height/envelope

Considering SEPP 65 requirements and merits of the proposal discussed throughout the body of this report, the proposal is considered satisfactory with regard to its street presentations from Victoria Road, Church Street and Formosa Street, its urban character and bulk and scale.

The zero front setback to Victoria Road is compliant and the height of the building will rise five storeys vertically from the Victoria Road alignment with the 6th floor setback approximately 3m. There is minor height non-compliance at each end of the site however the overall height of the building remains largely within the maximum allowable height of 20m.

The Victoria Road façade is articulated such that the modulated building elements reflect and reference the scale and pattern of commercial facades typical of more traditional commercial development in the shopping strip, some of which are still remaining, particularly further along toward the north-west within the conservation area on the opposite side of the road.

The proposed metal framed/roofed footpath awning components are based on a traditional style and are considered complementary to surrounding/nearby traditional and new footpath awnings in both form and function.

Generally, it is considered that the proposal has taken design cues from recently approved and constructed mixed use development in the area to include building form that is compartmentalised and modulated to reflect a scale that references original and traditional shop development along the Victoria Road Shopping strip. This is evident in the way the Victoria Road façade has been treated with components contrasting in colour, material and form to reduce overall bulk and scale appearance of what is a substantial structure. The modulated awning components further adding a more human scale to the development. (see the Victoria Road perspective drawing below)



Perspective drawing as viewed from Victoria Road

Intensity of Use

The proposal is considered acceptable with regard to proposed intensity of use. The maximum floor space ratio is fully compliant however the building height controls have been exceeded to a minor extent and supported in this instance. The proposal is

considered acceptable with regard to the capacity of the site and does not significantly breach the maximum allowable building height for the site.

Social/Economic

The proposal is not expected to result in adverse social and economic implications.

Landscaping/Tree Removal

There is no vegetation existing on the site. As identified in the SEPP 65 assessment, the proposal is limited as to the amount of deep soil and landscape features that it can provide however it does seek to improve on current provisions significantly.

As indicated in the submitted landscape concept plan, the proposal provides adequate landscape buffer zones between the proposed built forms and the residential street at the rear.

Given the limited capacity of the site, the proposal is considered satisfactory with regard to the provision of quality private open space and landscape features and has been supported by Council's Landscape Architect.

5.5. Suitability of the Site for the Development Proposed [Section 79(c)]

The proposed development has been assessed in relation to its environmental consequences, and in terms of the State Environmental Planning Policy No.55. Having regard to this assessment, it is considered that the land is suitable for the intended development following remediation.

5.6. The Public Interest [Section 79C (e)]

The proposed development is consistent with the objectives of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. As a result Council may be satisfied that the development subject to conditions is consistent with the public interest.

6. INTERNAL REFERRALS

6.1. Landscaping/Tree Removal

The application was referred to Council's Landscape Architect for review of the submitted Landscape concept. The following comments were returned.

- *The street trees for Victoria Rd and Formosa St need to be changed.*
- *The Melia sp proposed for Formosa St tends to be weedy in the Canada Bay area and spreads into our natural foreshore areas.*
- *The Fraxinous sp proposed for Victoria Rd will likely be damaged from public buses and larger vehicles as it tends to spread rather than grow straight up.*
- *For the Victoria Rd trees Corymbia maculata (Spotted Gum) is recommended and for Formosa St Tristaniopsis laurina (Water Gum). Both species should be supplied in a 200 litre container to ensure they can establish, especially along Victoria Rd where there will be a lot of traffic and wind.*

The applicant responded with amendments to the original Landscape concept. This was further reviewed by Council's Landscape Architect who advised that all issues raised in the original review have now been resolved.

6.2. Stormwater Drainage

The application was referred to Council's Engineer for comment on the proposed stormwater management concept. No issue was raised against approval subject to specific conditions of consent which have been attached to the recommendation of approval.

6.3. Traffic Engineering/Local Traffic Committee (where not SEPP 11)

The original submission was reviewed by Council's Traffic Engineer who raised technical issues regarding vehicular access, parking, bicycle storage, carpark layout, resident parking schemes and traffic generations.

The applicant responded with amended plans for further review by the Traffic Engineer. The following comments were returned.

This report is based on the following plans and documentation:

- *Traffic and Parking Response Letter by Colston Budd Hunt and Kafes dated 9 September 2015*

Note: Victoria Road, the subject road of the proposal, is a classified road and subsequently, R.M.S. concurrence is required. (The Planning Officer is to refer this application to the RMS for any relevant condition/requirements prior to issuing development consent.)

Comment: The proposal was referred to and reviewed by Roads and Maritime. See comments and recommended conditions below.

Traffic/Parking Comments

- *The proposed parking provisions comprises of 226 resident spaces, 35 visitor/commercial spaces, 54 restaurant/café spaces and an additional 6 on-street visitor spaces (as a result of a reduction in the number of driveways to the subject site). The submitted proposal does not satisfy Council's parking requirements.*

Councils Traffic Engineer does however have no objection to the adoption of the lower RMS visitor parking rate of 1 space per 7 units, equating to a requirement of 23 visitor parking spaces.

Should the proposed total parking provision of 315 spaces be approved, parking is to be allocated as 48 restaurant/café spaces (remainder of requirement satisfied by additional 6 on-street spaces), 18 commercial spaces, 23 visitor spaces and 226 resident spaces.

Comment: Given the Council's Traffic Engineer's concurrence regarding the adopted parking rates discussed above, there are no further parking provisions issues raised subject to the inclusion of the recommended conditions of consent.

Furthermore, since the above amended proposal review, the applicant has made additional changes to the carpark layout and accommodated a total of 319 car parking spaces (4 additional spaces). It is recommended that the additional 4 spaces be designated to visitor spaces. Therefore, parking is to be allocated as 48 restaurant/café spaces (remainder of requirement satisfied by additional 6 on-street spaces), 18 commercial spaces, 27 visitor spaces and 226 resident spaces.

Council's Traffic Engineer has recommended the following conditions of consent:

Standard Conditions:

DACCI05, DACCG04, DACCG10

Comment: The above standard condition have been included in the recommendation for approval.

Special Conditions:

1. ***Prior to the issue of a Construction Certificate, the applicant shall submit, for review and approval by Council's Engineers, a detailed Construction Traffic Management Plan (CTMP). The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition, excavation and construction phase of the development. The plan shall be certified by a suitably qualified and experienced traffic consultant and all traffic associated with the subject development shall comply with the terms of the approved Construction Traffic Management Plan.***

The following matters (at a minimum) must be addressed in the CTMP:

- *A detailed description and route map of the proposed truck/construction vehicle access routes,*
 - *The locations of any proposed Construction Works Zones along the site frontage,*
 - *Provide a construction schedule,*
 - *Tradesperson parking (parking shall be provided on-site where possible),*
 - *Provide relevant Traffic Control Plans (certified by an RTA accredited person i.e. red or orange ticket),*
 - *Provide relevant Pedestrian Management Plans,*
 - *A site plan which indicates site entrances and exits, turning areas within the site for construction and spoil removal vehicles allowing a forward ingress and egress for all construction vehicles on the site (superimposed truck swept path diagrams). Site entrances and exits shall be controlled by a certified traffic controller.*
2. ***The turning bays on Ground and B1 levels are to be clearly linemarked and signposted to indicate they are for the use of turning vehicles only and that parking is prohibited. Plans shall demonstrate compliance with this requirement prior to the issue of a Construction Certificate.***
 3. ***AS/NZS 2890.6:2009 requires a bollard be installed in the shared area adjacent to a disabled parking space and the shared area diagonally linemarked. The building plans shall demonstrate compliance with this requirement prior to the issue of a Construction Certificate.***

4. *All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes. The owner of the dwelling must advise in writing all intending owners, tenants and occupiers of the dwelling, at the time of entering into a purchase/lease/occupancy agreement of this prohibition.*
5. *Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must be located in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected **prior to an Occupation Certificate** being issued and must be maintained in good order at all times.*

Comment: The above recommended conditions have been included in the recommendation for approval.

6.4. **Heritage/Urban Design**

The application has been reviewed by Council's heritage Advisor who raised issues with the original submission and recommended the following:

It is recommended that the design of apartment buildings "E" and "F" be amended so that the buildings fronting Formosa Street:

- *differ to a greater extent from the building along Victoria Road*
- *have some small scale detail that will provide visual texture*
- *have a direct entry from Formosa Street for apartments F01 and F02*
- *have a fence height of 900mm - 1200mm for the front garden area of the ground floor apartments (to reflect those characteristic of the conservation area), although it is acknowledged that some higher solid fences may be needed for the private open space area of the ground floor apartments.*
- *consideration could also be given to some colour change.*
- *have a greater extent of deep soil garden beds along the Formosa Street frontage.*
- *The long length of fence along Formosa Street should also visually "broken up" into smaller sections.*

The applicant responded with a revised design that has adequately addressed the concerns above including a clear architectural distinction between the Victoria Road buildings and the Formosa Street buildings in form, scale and detail. F01 and F02 now include direct access from Formosa Street. The landscape plan has been revised and supported by Council's Landscape Architect and the front fence is adequately articulated and includes face brick with palisade detailing.

The revisions include a glazed blue face brick to the Formosa Street fence. It is considered that a more appropriate brick to better relate to the conservation area opposite the site would be a simple dry pressed darker face brick. A condition of consent is recommended to ensure that this type of preferred brick is adopted instead of the glazed blue brick proposed.

6.5. **GIS**

The application was referred to Council's Land Information Systems officer for comment on street numbering. A satisfactory numbering strategy has yet to be agreed

on and careful consideration is required given the multiple street frontage and entry points. It is therefore advised that a condition of consent be included to require the applicant a Street Numbering Strategy to Council for approval prior to the issue of any Construction Certificate.

6.6. Environmental - Contamination

The application was referred to Council's Environmental Officer for comment on potential contaminated land. The following documentation was reviewed by the Environmental Officer:

- Remediation Action Plan prepared by DLA Environmental Services dated September 2015
- Letter of Interim Advice prepared by Enviroview dated 18th February 2016
- Email correspondence from Georgia Macintosh - Assistant Development Manager EG

Background/Issues & Comments

The Environmental Officer reviewed the Site Remedial Action Plan (RAP) prepared by DLA Environmental Services and dated September 2015, which states that the site will be suitable after remediation for the purpose for which the development is proposed.

The RAP has been peer reviewed by a NSW EPA Accredited Site Auditor and a letter of interim advice issued by Enviroview, dated 18th February 2016, certifying that the RAP is practical and the site will be suitable after remediation for the proposed use has been submitted to Council.

It is noted that a Construction Management Plan has also been submitted to Council as part of the Remedial Action Plan.

The Environmental Officer also reviewed the RAP and Interim Letter of Advice and has no objection to the application being approved subject to the specific conditions of consent which have been added to the recommendation for approval.

6.7. Environment - Waste

The original submission was reviewed by Council's Waste Collection Officer who advised the following requirements which have been included as special waste management conditions in the recommendation for approval.

Residential Waste Management

1. Minimum storage space shall be provided for:
 - Waste - 164 x 120L = 19,680L / 660L bins = 30 bins
 - Or if compacted 2:1 = 15 x 660L bins = 30 bins
 - Or 19,680L / 110L = 18 x 1100L bins
 - Recycling - 164 x 120L = 19,680L / 660L bins = 30 bins
 - Or 19,680L / 1100L = 18 x 1100L bins
2. Collection frequency

- Domestic bins to be collected once per week
- 3. Provide additional storage space for at least 2 x 660L/1100L bins to be used specifically for excess cardboard.

Commercial Waste Management

- 4. Provide each commercial tenancy with individual and unique locking system for security.
- 5. Ensure that storage space is provided for at least half of the expected volume (as indicated in the approved Waste Management Plan prepared by Elephants Foot, dated 21 August 2015) of commercial waste and recycling to assist with minimising negative impacts from collection movement, noise and additional traffic.

Further, the approved Waste Management Plan prepared by Elephants Foot, dated 21 August 2015 and the approved drawing No. DA 4.1 (revision 04) will require amendment to correspond with each other and include the above requirements.

7. EXTERNAL REFERRALS INCLUDING THE RESULT OF ANY REFERRALS TO AN APPROVED AUTHORITY

The application was referred to Roads and Maritime for review and to seek concurrence under in accordance with Section 138 of the Roads Act. 1993.

Roads and Maritime advised that it would provide concurrence under Section 138 of the Roads Act, 1993 subject to specific conditions of consent as follows.

- 1. *Roads and Maritime has previously acquired a strip of land for road along the Victoria Road frontage of the subject property, as shown by blue colour on the attached Aerial - "X".*

Roads and Maritime has previously vested a strip of land as road along the Victoria Road frontage of the subject property, as shown by grey colour on the attached Aerial- "X".

Therefore, all buildings and structures (other than standard pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Victoria Road boundary.



2. *The redundant driveways on the Victoria Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Victoria Road shall be in accordance Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).*

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. *Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.*

Details should be forwarded to:

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

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

4. *The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.*

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

The report and any enquiries should be forwarded to:

*Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124*

*Telephone 8849 2114
Fax 8849 2766*

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

- 5. The proposed development should be designed such that road traffic noise from Victoria Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.*
- 6. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.*
- 7. A Road Occupancy licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities.*
- 8. All demolition and construction vehicles are to be contained wholly within the site. A construction zone will not be permitted on Victoria Road.*

Comment: The above recommendations have been adopted as conditions of consent in the recommendation for approval.

Roads and Maritime also returned the following comment for Council's consideration in the determination of the application:

- 9. The proposed 314 (subsequently amended to 319) car parking spaces are well above the Roads and Maritime's requirements of car parking spaces for this development. The proposed development is adjacent to bus services 1 along Victoria Road. Providing unconstrained car parking spaces will discourage the use of sustainable transport modes. Consideration should be given to providing a reduced number of car parking spaces for this development.*

Comment: The proposed car parking provisions have been reviewed by Council's Traffic Engineer and supported with recommended conditions. The car parking

provisions are below Council's DCP requirement of 331 spaces however in excess of Roads and Maritime requirements. A reasonable level of parking provisions in the area for a development of the size proposed would be expected to reduce any on-street parking pressure which is a common concern in several of the submissions to Council objecting to the proposal.

The car parking provisions provided are considered acceptable in this instance with conditions of consent recommended by Council's Traffic Engineer. See Traffic Engineer's comments above under section 6.

8. CONCLUSION

The proposed development is appropriately located within a *B4 Mixed use* under the provisions of *Canada Bay Local Environmental Plan 2013* however a building height variation is sought from Council's normal controls as discussed in the report above.

The applicant has included a written request to vary the development standard which has been considered and supported in this instance given the minor extent of the non-compliance and restrictions of the land.

Having regard to the merit assessment of the proposal, Council may be satisfied that, despite the departures to the controls, the development is designed in an acceptable manner, which responds to the constraints presented by the site. Particularly adverse impacts to the amenity of neighbouring properties have been minimised whilst the amenity needs of future residents have been supported.

For these reasons it is considered that the proposal in balance is satisfactory from an environmental planning perspective and is thus favourably recommended.