

Synopsis

This report concerns an application to demolish existing improvements and Torrens title subdivision of the site into 2 allotments and construct and fit out a 13,350sqm Masters Home Improvement store including vehicle access, loading, car parking and landscaping on Lot 1 and construct 10 industrial units varying from 348sqm to 635sqm including vehicle access, loading, car parking and landscaping on Lot 2.

The application was notified in accordance with Council's Notification Policy and 13 submissions were received.

This development is classified as being a 'Traffic Generating Development' and the application was referred to Roads and Maritime Services (RMS) for comment.

The development has a capital investment value (CIV) of \$32,703,000. Applications with a CIV of more than \$20 million must be referred to the Joint Regional Planning Panel (JRPP) to exercise its consent authority functions under Schedule 4A of Environmental Planning and Assessment Act 1979.

The proposal does not comply with Council's signage controls as prescribed under Part 2.12 of Marrickville Development Control Plan (MDCP) 2011, landscaping controls as prescribed under Part 2.18 of MDCP 2011 and setback requirements prescribed under Part 6 of MDCP 2011.

Amended plans were submitted which proposed landscaping improvements to the site and a 3 metre wide pedestrian/cycle way along the frontage of the site which is to be dedicated as Council land. Furthermore, a small portion of the Masters building conflicts with the zoning provisions applying to the land.

To overcome permissibility constraints relating to the Masters building, the application is considered suitable for the issue of a deferred commencement consent with the building to be slightly amended to resolve the permissibility issue. Subject to this minor design change, the proposal is satisfactory subject to the imposition of appropriate terms and conditions.

PART A - PARTICULARS

Location: Located on the south western corner of Edinburgh Road and Sydney Steel Road, Marrickville.



Image 1: Location Map

DA No: 201500168

Application Date: 16 April 2015 (additional information and amended plans submitted on 22, 28 and 30 July 2015 and 5, 10,13, 17 and 18 August 2015)

Proposal: To demolish existing improvements and Torrens title subdivision of the site into 2 allotments and construct and fit out a 13,350sqm Masters Home Improvement store including vehicle access, loading, car parking and landscaping on Lot 1 and construct 10 industrial units varying from 348sqm to 635sqm including vehicle access, loading, car parking and landscaping on Lot 2

Applicant: Hydrox Nominees Pty Ltd

Estimated Cost: \$32,703,000

Zoning: IN1 General Industrial and SP2 Infrastructure

PART B - THE SITE AND ITS CONTEXT

Improvements: The site is occupied by a number of industrial buildings including a distribution centre (Dairy Farmers) and associated car parking and loading area.



Image 2: The site as viewed from the intersection of Edinburgh Road and Sydney Steel Road



Image 3: The site as viewed from Edinburgh Road



Image 4: The site as viewed from the intersection of Edinburgh Road and Sydney Steel Road

Current Use: Nil

Prior Determinations: Determination No. 8549, dated 2 November 1983, approved an application to carry out extensive demolition, alterations and new construction work within the existing industrial complex and to continue its existing use for the manufacture, storage and distribution of edible oils.

Determination No.10692, dated 3 March 1987, approved an application to erect a 2 storey office building to be used in association with the existing use of the premises for the manufacture, storage and distribution of edible oils.

Determination No. 12638, dated 20 October 1989, approved an application to erect a one part 2 storey building to be used as a margarine hall, store and warehouse in association with the existing use of the premises for the manufacture, storage and distribution of edible oils.

Determination No 200000039, dated 9 March 2000, approved an application to carry out internal alterations to the office building within the factory complex.

Determination No. 199902170, dated 24 March 2000, approved an application to demolish the existing boiler house and erect a new single storey factory/warehouse/boiler house.

Determination No. 200600509, dated 6 November 2006, approved an application to carry out alterations to the warehouse in the southern corner of the site and to use such building for the storage and distribution of milk and associated products and to erect an associated flush wall sign.

Determination No. 200700188, dated 11 May 2007, approved an application to install an ablution (amenities) block adjacent to the existing ablution block.

Determination No. 200700564, dated 14 May 2008, approved an application to subdivide the property from 3 lots into 2 lots.

Environment: Industrial

PART C - REQUIREMENTS

1 Zoning
Is the proposal permissible under zoning provisions? Proposed Lot 1: No, see comments in body of report
 Proposed Lot 2: Yes

2 Development Standards (Statutory Requirements):

<i>Type</i>	<i>Required</i>	<i>Proposed</i>
Floor Space Ratio (max)	0.95:1	0.64:1

3 Departures from Development Control Plan:

<i>Type</i>	<i>Required</i>	<i>Proposed</i>
Landscaping	see comments in body of report	
Signage	see comments in body of report	
Setbacks	see comments in body of report	

4 Community Consultation:

Required: Yes (newspaper advertisement, on-site notice and letter notification)
 Submissions: 13

5 Other Requirements:

ANEF 2033 Affectation: Part 20-25 and Part 25-30 ANEF
 Marrickville Section 94/94A Contributions Plan 2014

PART D - ASSESSMENT

1. The Site and Surrounds

The street address of the site is 74 Edinburgh Road, Marrickville. The legal description of the land is Lot 202 in DP 1133999, Lot 3 in DP 180969 and Lot 3 in DP318232 and the property has an area of approximately 2.8 hectares. The site is occupied by a number of industrial buildings including a distribution centre (Dairy Farmers) and an associated car parking and loading area.

The property has frontages to both Edinburgh Road to the north and Sydney Steel Road to the east and is set on the fringe of an industrial precinct located to the south, east and west.

A number of easements are registered on the property title including:

- Sewerage easement running diagonally from the eastern corner to the western corner of the site.
- Electricity easement located in the mid-point of the allotment, including a right of way to the western boundary for access.
- Stormwater culvert and easement (being Lot 3 in DP 180969 and Lot 3 in DP318232) which runs horizontally through the northern portion of the site. Lot 3 in DP 180969 and Lot 3 in DP318232 are owned by Sydney Water with the easement benefitting Sydney Water.

Land uses in the immediate vicinity of the site are comprised of industrial development. The Marrickville Metro retail centre is located to the north of the site.

2. The Proposal

Approval is sought to demolish existing improvements and Torrens title subdivision of the site into 2 allotments and construct and fit out a 13,350sqm Masters Home Improvement store including vehicle access, loading, car parking and landscaping on Lot 1 and construct 10 industrial units varying from 348sqm to 635sqm including vehicle access, loading, car parking and landscaping on Lot 2.

In summary, this application seeks approval for:

- Demolition of all existing buildings on the site;
- Torrens title subdivision of the site into 2 lots;
- Construction of a Masters store and associated works on Lot 1 fronting Edinburgh Road; and

- Construction of 10 industrial units and associated works on Lot 2 fronting Sydney Steel Road.

Construction is proposed to occur in two stages with Stage 1 being the Masters store and Stage 2 being the industrial units.

The proposal includes Torrens title subdivision to create:

- A 'Masters lot' of approximately 20,718sqm (referred to as Lot 1); and
- A separate 'industrial lot' of approximately 6,780sqm in the southern portion of the site (referred to as Lot 2). It is proposed that the 10 industrial units to be erected on Lot 2 be strata subdivided.

The proposed Torren title subdivision would create 2 lots of the following dimensions:

Site	Area	Frontage	Depth
Lot 1 (Masters Site)	20,718sqm	~150 metres to Edinburgh Road	~131 metres
Lot 2 (Industrial Units Site)	6,780sqm	~53 metres	~141 metres

During the assessment Council Officer's raised concerns which included the following;

- Visual dominance of the car park;
- Lack of landscaping/ adequate tree planting;
- Inadequate information relating to levels on the south east corner of the development on Lot 2 and how it complies with the Flood Study conducted; and
- Non provision of a pedestrian/bicycle path along the frontage of the site.

Amended plans were submitted seeking to address those concerns.

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

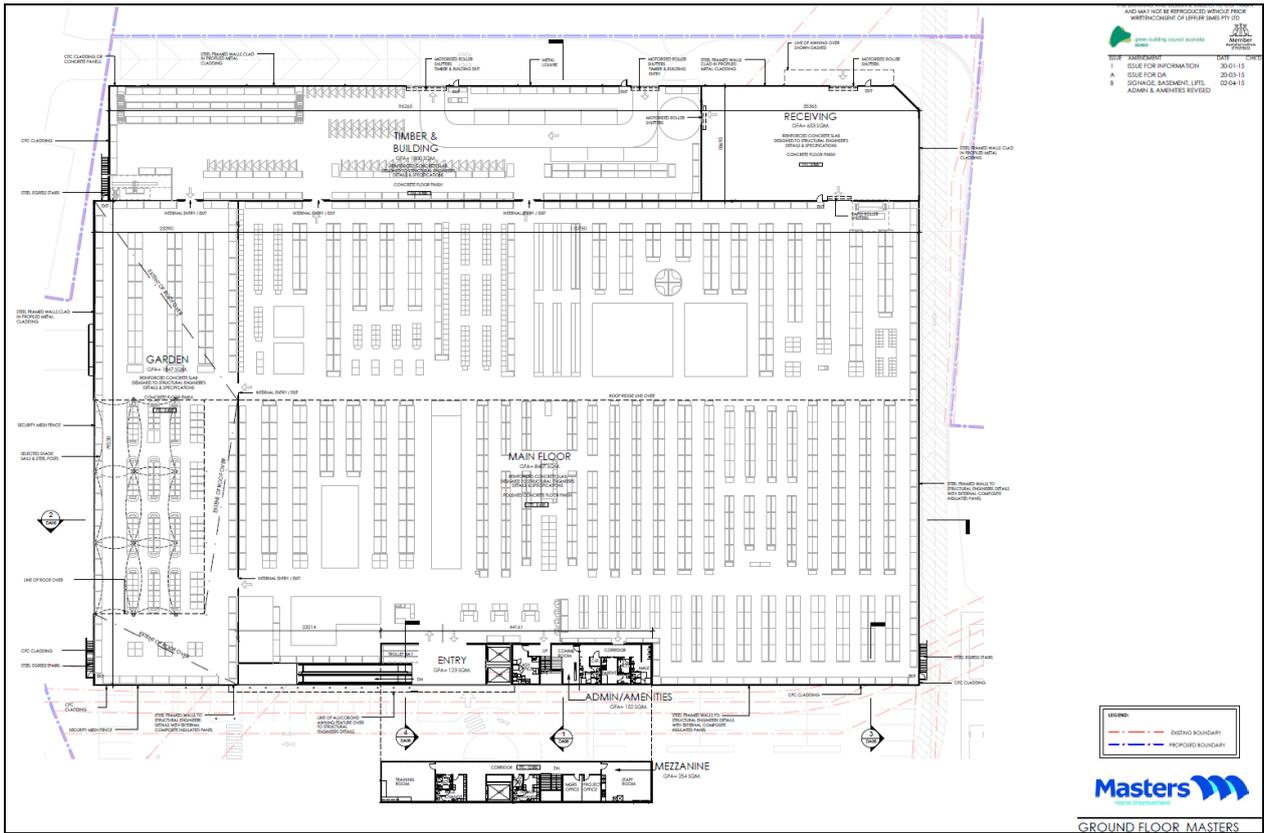


Image 7: Floor Plan (Masters)

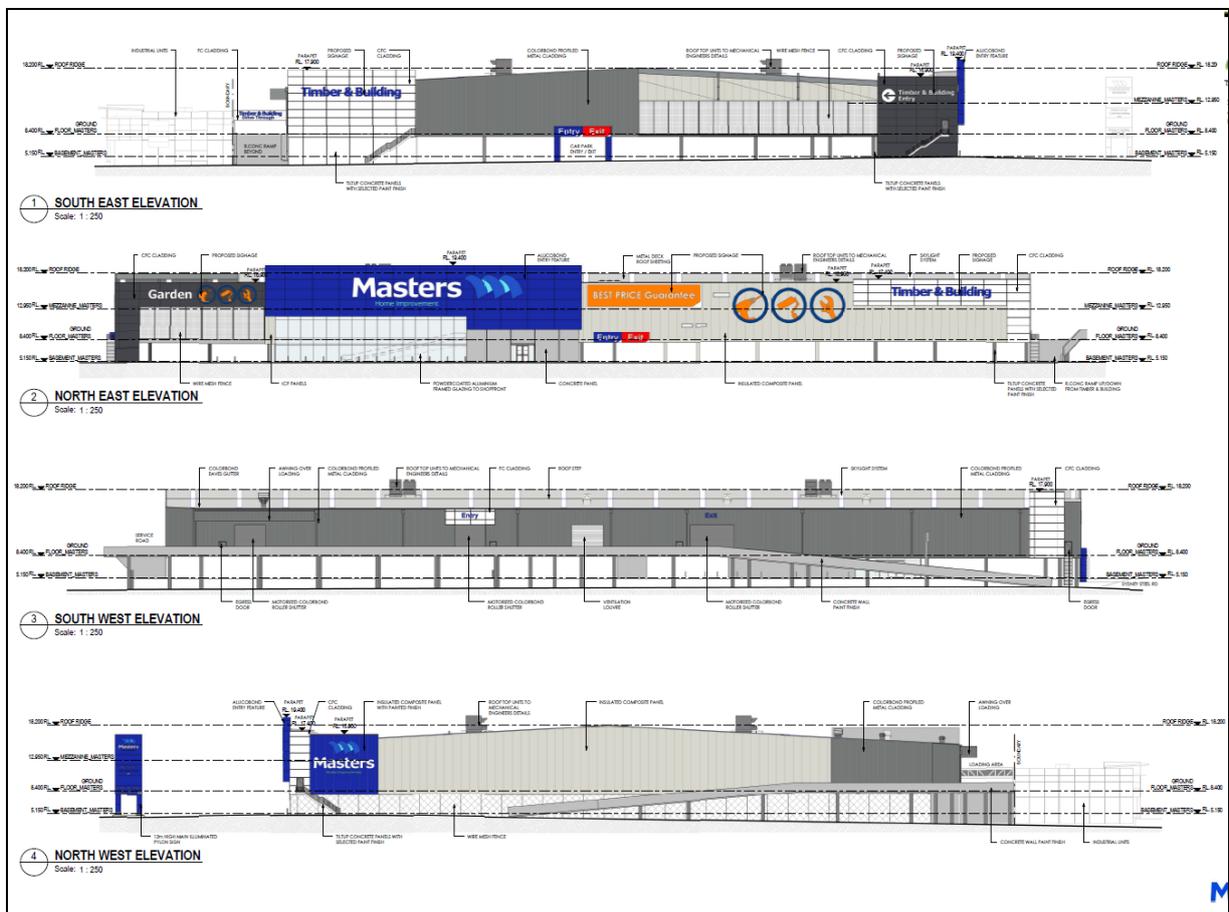


Image 8: Proposed elevations for Lot 1 (Masters)

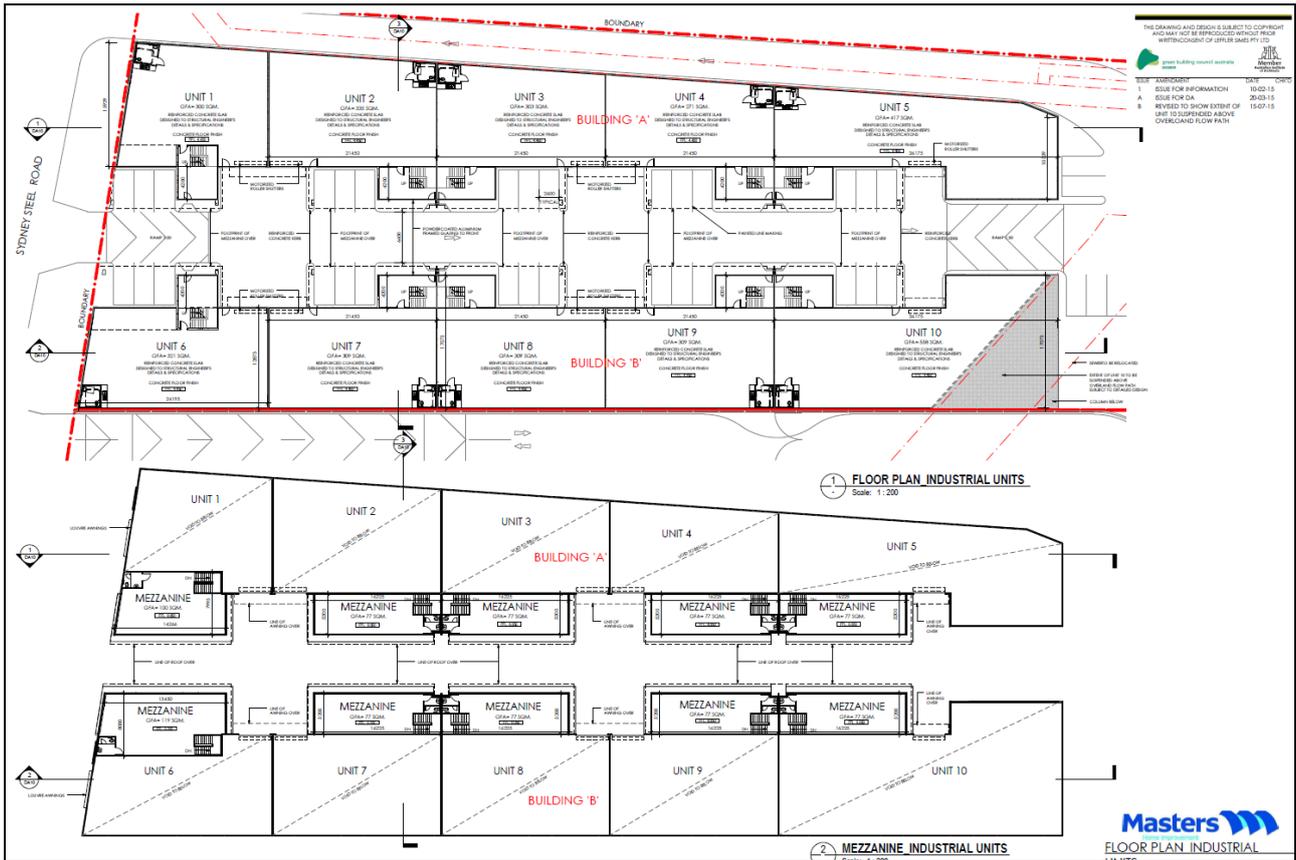


Image 8: Amended floor plans of proposed industrial units on Lot 2

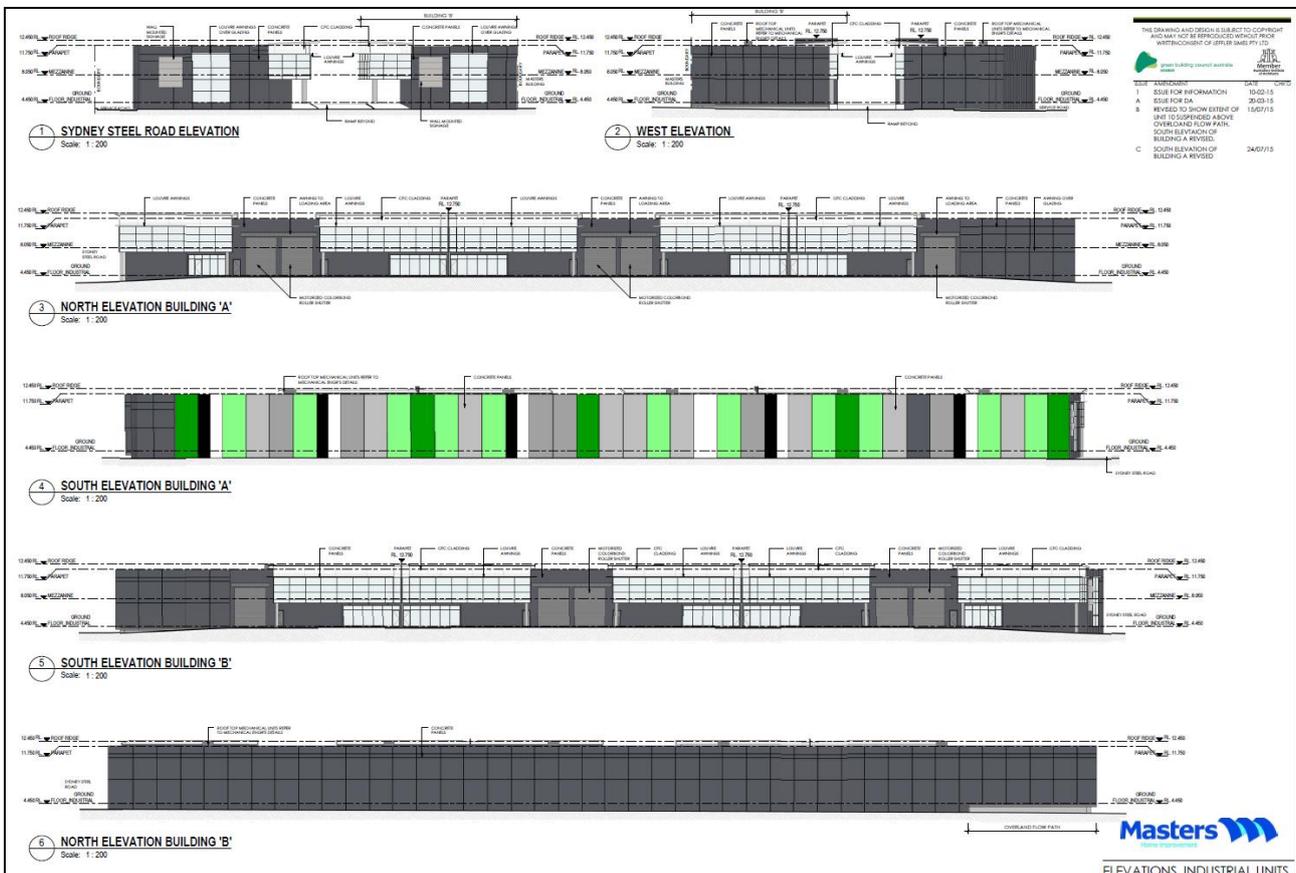


Image 9: Amended elevations of proposed industrial units on Lot 2

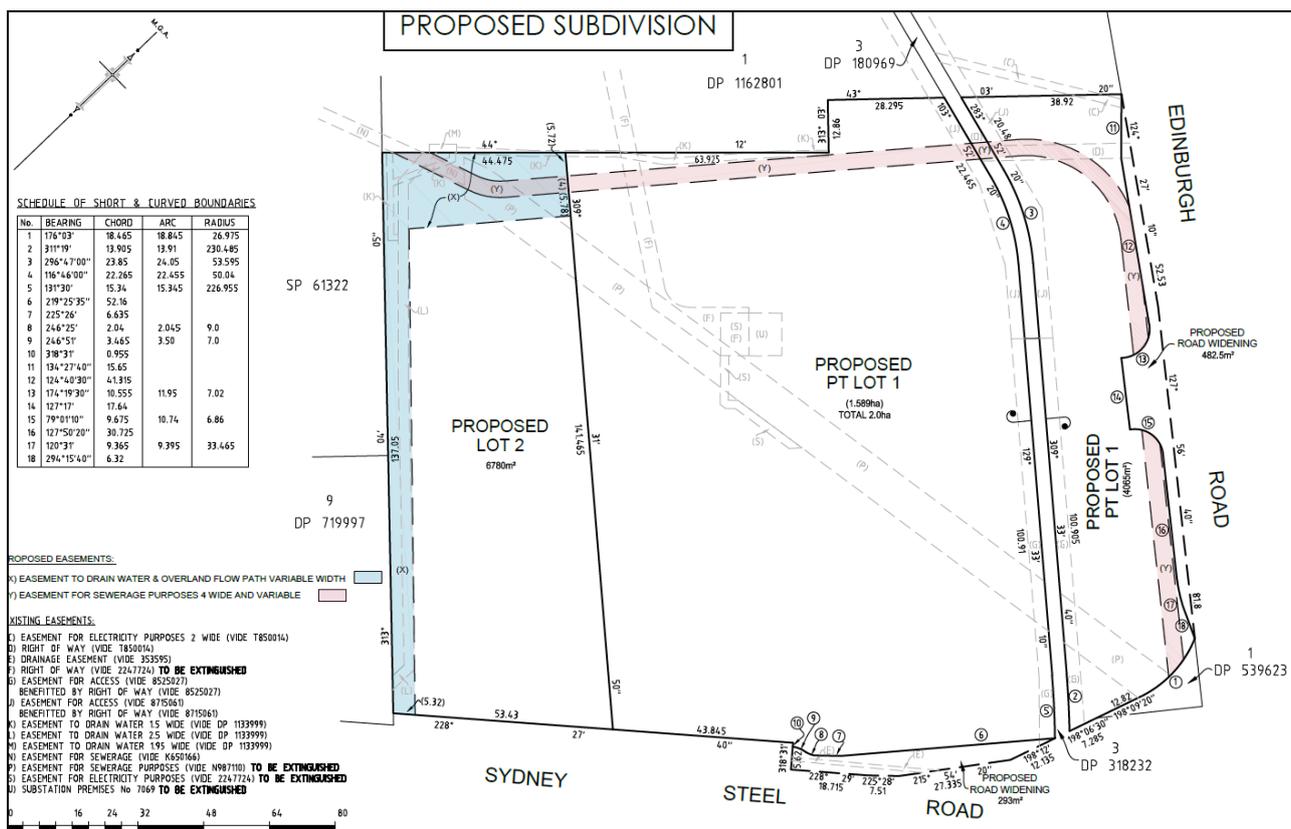


Image 10: Proposed Plan of Subdivision

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) contains planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.

Clause 7 (1) (a), (b) and (c) of the SEPP states:

- "7. Contamination and remediation to be considered in determining development application*
- (1) A consent authority must not consent to the carrying out of any development on land unless:*
- (a) it has considered whether the land is contaminated, and*
 - (b) 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, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

A Phase 2 Environmental Site Assessment was submitted with the development application and that assessment concluded:

- The laboratory analysis suggests that all site soils comply with the Commercial/Industrial land use criteria;
- No evidence can be found to infer contamination by heavy metals, PAH type compounds, pesticides or PCBs at the site;

- Groundwater is not expected to have been affected by activities on site;
- A comprehensive Hazardous Material Survey will be required before any future demolition or refurbishment works can be carried out to determine the lead content of the paints and whether any asbestos contaminated materials are present on the site; and
- Based on the Environmental Site Assessment, no further investigation is required and the site is deemed suitable for the proposed land use.

In response to the above the applicant prepared a Hazardous Material Survey which identified potential sources for asbestos, synthetic material fibre and lead paint and contained recommendations for removal during demolition in accordance with best practise. Condition 1 in the recommendation of this report references the Survey to ensure demolition is carried out in accordance with the prescribed requirements.

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

State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64) specifies aims and objectives and assessment criteria for signage as addressed below. This SEPP applies to all signage that requires development consent and aims to ensure that signage is compatible with the desired amenity and visual character of an area.

Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64.

The aims and assessment criteria in SEPP 64 are generally covered by the signage controls contained in *Part 2.12 of Marrickville Development Control Plan 2011 – Signs and Advertising Structures* and are considered as part of the assessment of the application presented in this report.

5. State Environmental Planning Policy Infrastructure (2007)

Clause 104 of SEPP (Infrastructure) states that the following is classified as ‘traffic generating activity’:

- Commercial development over 10,000sqm with access to any road
- Industrial development over 20,000sqm with access to any road

The application was accompanied by a Traffic Impact Assessment and was referred to the Roads and Maritime Services (RMS) who provided initial advice by letter dated 19 May 2015 which raised concerns regarding the need for additional modelling, assessment of the proposals impact on traffic signals and the need for additional detailed plans.

The applicant subsequently submitted additional information to the RMS.

RMS has reviewed the additional information and by letter dated 23 July 2015 granted in-principle consent under Section 87C of the Roads Act 1993, subject to the imposition of a number of conditions being imposed on any development consent granted. Those conditions are included in the recommendation of this report.

6. Marrickville Local Environmental Plan 2011

An assessment of the development having regard to the relevant provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011) is provided below.

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

The site identified as proposed Lot 1 is zoned IN1 - General Industrial and SP2 – Stormwater Management Systems under the provisions of MLEP 2011.

The proposed development on Proposed Lot 1 for a “*hardware and building supplies centre*” is not permissible under the zoning provisions applying to the land.

The site identified as Proposed Lot 2 is zoned IN1 - General Industrial. The proposal to construct a multi-unit industrial complex is permissible with Council’s consent under the zoning provisions applying to the land.

Notwithstanding the zoning provisions applying to the land on proposed Lot 1, Clause 2.5 of MLEP 2011 permits the proposed use of the lot fronting Edinburgh Road. Schedule 1 – Additional Permitted Uses of MLEP 2011 identifies the site as follows;

“3A Use of certain land at 74 Edinburgh Road, Marrickville

- (1) *This clause applies to land at 74 Edinburgh Road, Marrickville, being Lot 202, DP 1133999 in Zone IN1 General Industrial.*
- (2) *Development for the purposes of a garden centre and hardware and building supplies is permitted with consent.”*

The objectives of the IN1 - General Industrial zone are as follows:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To protect industrial land in proximity to Sydney Airport and Port Botany.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.”*

The proposed development is consistent with the provisions of the IN1 zone as the proposal will facilitate employment generating development and the subdivision supports a range of uses including light industrial uses being provided on Lot 2.

The Masters store has the potential to:

- Provide development which complements existing industrial uses by providing hardware, timber and building supply sales for industrial users such as trade workers in the area and will facilitate choice in the wholesale market for local trade related industries; and
- Have a positive employment impact generating approximately 300 direct jobs during construction as well as approximately 115-150 retail jobs.

The proposed industrial units on Lot 2 have the potential to:

- Provide development consistent with the zone objectives by increasing range and diversity in scale of industrial units in the precinct.
- Accommodate traditional light industrial development which will meet the needs of the local community.

The proposed development is considered acceptable having regard to the objectives of the IN1 - General Industrial zone.

As mentioned above a small portion of the site is zoned SP2 – Stormwater Management Systems under MLEP 2011 and “*hardware and building supplies centre*” are prohibited under the SP2 zone. The permissibility of the proposal having regard to the SP2 – Stormwater Management Systems zoning is discussed in greater detail below under the heading “Development near zone boundaries (5.3).”

(ii) Additional Permitted Uses for particular land (Clause 2.5)

The property known as Lot 202, DP 1133999 is referenced in Schedule 1 of MLEP 2011 and permits the additional use, being “*garden centre and hardware and building supplies*”, as outlined in heading 6(i) above.

(iii) Subdivision (Clause 2.6)

Clause 2.6 of MLEP 2011 states that land to which the Plan applies may be subdivided, but only with development consent. The application seeks approval for the subdivision of the land. The issue of subdivision is discussed later in this report under the heading “*Marrickville Development Control Plan 2011 - Part 3 - Subdivision, Amalgamation and Movement Networks*”.

(iv) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council’s standard conditions relating to demolition works are included in the recommendation.

(v) Height (Clause 4.3)

There is no maximum building height applying to the property on the Height of Buildings Map that accompanies MLEP 2011.

The proposed Masters Store is a 1 storey building with mezzanine. However the structure is elevated to ensure the building is above the flood levels and is clear of Sydney Water assets which traverse the site. The Masters building has a maximum building height of 14.325 metres.

The industrial units on proposed Lot 2 are single storey with a mezzanine and have a maximum height of 8.3 metres.

The height of the proposed development is reasonable as:

- MLEP 2011 does not prescribe a maximum height limit for industrial developments in the General Industrial zone;
- The proposed development consists of varying materials to provide interest in the façade;
- The height of the industrial units on Lot 2 are comparable/consistent to neighbouring industrial developments;
- The proposed development does not result in visual bulk impacts when viewed from any adjoining or surrounding properties; and
- The development on proposed Lot 1 is setback in excess of 25 to 35 metres from the Edinburgh Road frontage and landscaping is proposed along the street frontage and within the front car park.

Given the above, the height of the proposed development is considered acceptable.

(vi) Floor Space Ratio (Clause 4.4)

The FSR control for the subject site is 0.95:1. The total site area is 27,498sqm. The total gross floor area is as follows:

- Lot 1 – Masters store: 13,337sqm.
- Lot 2 – Industrial units: 4,267sqm.

This results in a total GFA across the entire site of 17,604sqm.

Accordingly, the proposed FSR is 0.64:1 for the entire site and complies with this control.

Notwithstanding the above, the application seeks to subdivide the land into 2 allotments. The resultant FSR for the separate lots would be 0.64:1 for Lot 1 and 0.63:1 for Lot 2, both of which comply with the prescribed development standard of 0.95:1.

(vii) Development Near Zone Boundaries (Clause 5.3)

Clause 5.3 of MLEP aims to provide flexibility with a use permitted on the other side of a zone boundary which would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

The provisions of Clause 5.3 are as follows;

- “(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.*
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 25 metres.*
- (3) This clause does not apply to:*
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or*
 - (b) land within the coastal zone, or*
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.*
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:*
 - (a) the development is not inconsistent with the objectives for development in both zones, and*
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*
- (5) This clause does not prescribe a development standard that may be varied under this Plan.”*

The stormwater easement traversing Proposed Lot 1 is zoned SP2 – Stormwater Management Systems.

It is noted that the property referred to in Schedule 1 – Additional Permitted Uses of MLEP 2011 which permits the additional permitted use for the purpose of “*garden centre and hardware and building supplies*” only applies to Lot 202 in DP 1133999 which is that part of the site zoned IN1-General Industrial. As such, the additional permitted use does not apply to the land zoned SP2 – Stormwater Management Systems which is legally described as Lot 3 in DP 318232 and Lot 3 in DP 180969.

It is proposed that a small portion (north western corner) of the Masters Building extend over the SP2 zone. The portion of the building extending over the SP2 zone is illustrated below;

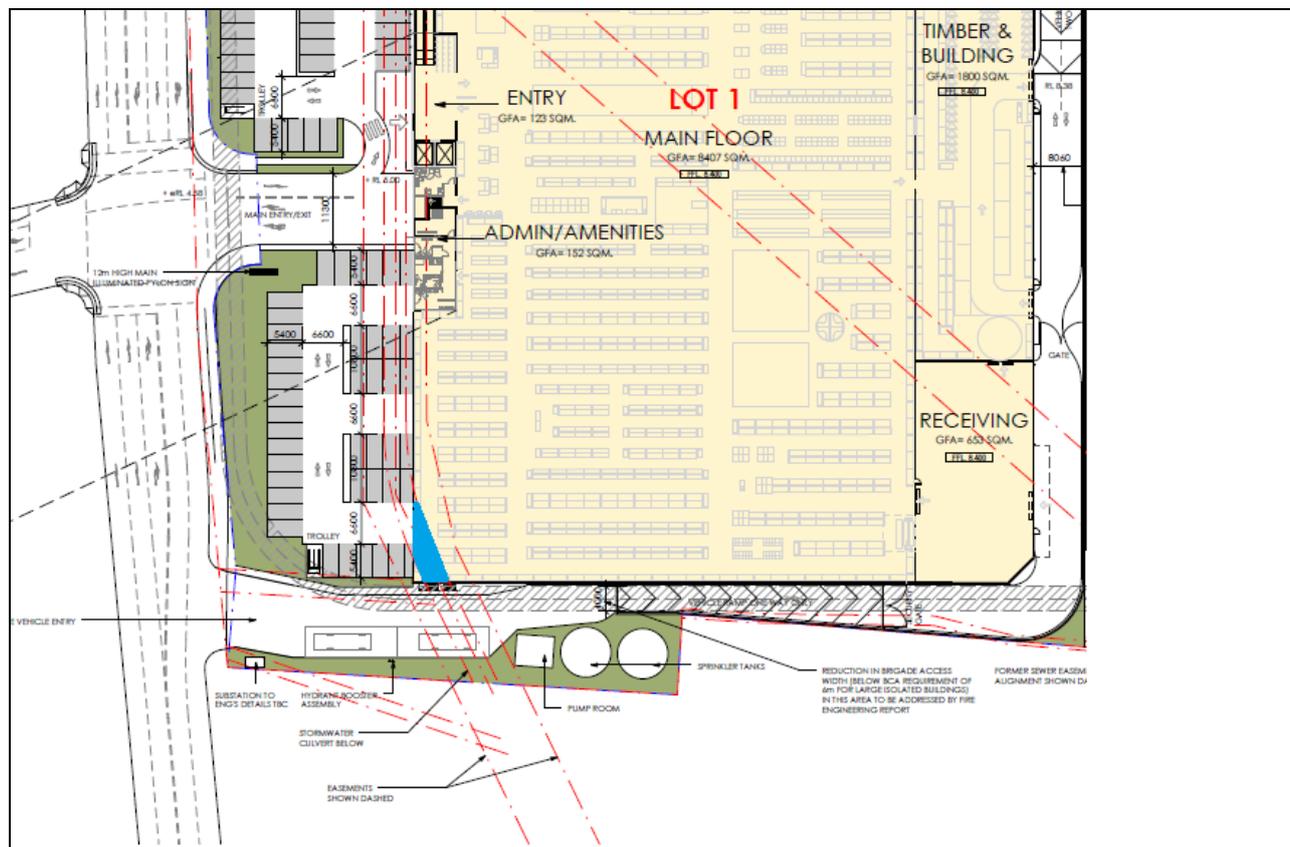


Image 11: Portion of building extending over the SP2 zone is highlighted in blue

Clause 5.3(4) identifies that development consent may be granted to development of land to which this clause applies “for any purpose that may be carried out in the adjoining zone”. The proposal for a “garden centre and hardware and building supplies” is not permitted in the adjoining IN1 zone as it is a form of retail / commercial premises which is a prohibited use in the zone. While Schedule 1 of MLEP permits a “garden centre and hardware and building supplies” as an additional permitted use on Lot 202 in DP 1133999, Clause 5.3(4) does not refer to permitted uses on adjoining lots but specifically refers to “adjoining zones”. Accordingly Clause 5.3(4) does not permit the “garden centre and hardware and building supplies” allowed on Lot 2 in DP 1133999 to be expanded into the SP2 zone.

To overcome permissibility constraints relating to the Masters building, a deferred commencement condition is included in the recommendation that requires the building footprint to be slightly amended such that it is located entirely on Lot 2 in DP 1133999 being that land zoned IN1 General Industrial that is also referred to in Schedule 1 – Additional Permitted Uses of MLEP 2011. Whilst this amendment would result in the provision of a splay on this corner of the building and result in the loss of approximately 36sqm of GFA, the design change would not be detrimental to the functioning, operation or overall appearance of the development.

Notwithstanding the above, the proposed development also seeks to provide car parking ancillary to the Masters store over the stormwater easement which is also not permissible in the SP2 zone. A “car park” is defined under MLEP 2011 as “a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not”. A “car park” is a permissible use in the IN1 zone and accordingly this use can extend to the SP2 zone under Clause 5.3 of MLEP 2011.

Clause 5.3 provides a zone of flexibility within 25 metres of the applicable zone. The land surrounding the subject stormwater easement is zoned IN1 – General Industrial which is located within 25 metres of the SP2 zone in accordance with Clause 5.3(2).

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

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

The applicant relies on the flexibility of Clause 5.3 and the proposed car park is consistent with the adjacent zoning provisions for the following reasons:

- The proposed development is considered reasonable having regard to streetscape presentation as the car park is surrounded by landscaping;
- The proposed development is located in an industrial area and is not directly adjacent to sensitive land uses;
- The proposed car park area does not conflict with the easement and is consistent with the SP2 zone by protecting the Sydney Water culvert allowing for ease of access to it for upgrade and maintenance works; and
- The majority of the site is zoned IN1 which permits the provision of industrial development, whilst Schedule 1 of MLEP 2011 permits the provision of a hardware and building supplies centre which the car park is ancillary to.

It is considered that the proposed car park is able to meet the objectives of both the SP2 zone and the IN1 zone demonstrating compatible land use planning and it is considered to be appropriate to utilise the provisions contained within Clause 5.3 of MLEP 2011 for this element of the proposed development.

However as noted above, a deferred commencement condition is included in the recommendation of this report slightly modifying the proposed building footprint to ensure that the Masters store is contained to that land referred to in Schedule 1 of MLEP 2011. Should the applicant wish to re-instate that portion of the building, a planning proposal must be lodged with Council that seeks to include Lot 3 in DP 180969, being that part of the site zoned SP2, in Schedule 1 of MLEP 2011.

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

Clause 5.9 of MLEP 2011 concerns the protection of trees identified under Marrickville Development Control Plan 2011.

There are a number of trees on and within the vicinity of the subject site that will be affected by the proposed development. The application was referred to Council's Tree Management Officer who provided the following comments:

"A significant number of trees with high and moderate retention value will be removed to facilitate the proposed development. Urban forest canopy over the site will diminish and associated benefits will be foregone.

An Arboricultural Impact Assessment (AIA) has been undertaken and a small number of trees have been identified as retainable.

Larger stature trees have been included in the landscape plan and will provide a greater urban forest benefit than would smaller stature trees.

The proposed development is in two stages. It is recommended that the trees in Lot 2 are retained and protected until Stage 2 commences. Ongoing urban forest benefit will be derived from these trees whilst ever they are retained and if Stage 2 fails to eventuate, the trees will not be unnecessarily lost.

The applicant was provided with written feedback and attended a meeting with Council to discuss the loss of trees and urban forest canopy and the need for adequate and appropriate compensatory tree planting. The provision of adequate and suitable canopy trees in the open car park to provide shade was discussed.

In response to Council's feedback and requested amendments, the applicant has submitted an arborist report (Naturally Trees, 15/7/15) and landscape plans and documentation (Site Issue Landscape Architects, 14/8/15) that are considered generally acceptable.

However, a couple of matters identified to the applicant with respect to trees have not been clearly addressed.

Some of the trees along Sydney Steel Road are in very close proximity to both the existing building and the proposed new building, with major encroachment into both their Tree Protection Zones (TPZ) and the Structural Root Zones (SRZ). Council requested that the impact upon these trees be addressed and if they were to be retained the arborist would need to demonstrate that their stability and ongoing viability would not be compromised. Fewer trees beside the building are now proposed to be retained but it is unclear and unjustified why trees 18, 19 and 20 are being retained given they are low value ('Z') trees.

Notwithstanding, their retention has been considered viable by the project arborist whose responsibility it will be to ensure their stability and ongoing viability is not compromised.

The applicant was advised that "the trees in and adjacent to Lot 2 should be retained until the commencement of work on Stage 2. Tree protection measures may be required for these trees during the Stage 1 development." This has not been addressed in the arborist report and will be recommended as a condition of consent."

The conditions recommended by Council's Tree Management Officer are included in the recommendation of this report with minor modifications to ensure that the pedestrian path is completed for both sites as part of Stage 1 of the development, as such the trees fronting Sydney Steel Road are considered reasonable to remove as part of Stage 1 to facilitate a continuous pedestrian/bicycle path maintain a connection to the regional bicycle route.

(ix) Acid Sulfate Soils (Clause 6.1)

The proposed development is located within an area identified as being subject to acid sulfate soil risk. Pursuant to Clause 6.1 of MLEP 2001, development that involves work at or below the water table must be accompanied by a preliminary soil assessment to ascertain the presence or absence of acid sulfate soils within the area of the proposed works.

An Acid Sulfate Soil Assessment was prepared by Environmental Investigation Services. In summary, the assessment concluded:

- The soil samples analysed for the investigation encountered results which were above the action criteria adopted for the assessment;
- Based on the results, the risk of generating Acid Sulfate Soil conditions following disturbance of the natural soils for the proposed development at the site is considered to be high;
- An Acid Sulfate Soil Management Plan is required for the proposed development.

A site specific management plan has been prepared in response to the findings and that report is referenced as part of the approved plans and documents listed in condition 1 as contained in the recommendation.

(x) Flood Planning (Clause 6.3)

The subject property is identified as land that is shown as “Flood planning area” on the MLEP 2011 Flood Planning Area Map. The application was referred to Council’s Development Engineer who advised the following:

“The site is subject to flooding during a 1 in 100 year storm event with overland flows entering the site via Edinburgh Road and escaping at the south western corner of the site. A Flood Impact Study by HydroStorm Consulting has been submitted with the application to verify that the existing 1 in 100 year overland flow regime through the site has been maintained and to ensure that there are no significant impacts on adjacent properties. The Flood Impact Study found that changes to the overland flows were minor with no significant impacts on adjacent properties. The floor levels of the proposed building have been raised above the Flood Planning Level for the sites and therefore the proposal is acceptable.”

Council’s Development Engineer has advised the application is satisfactory subject to the imposition of appropriate terms and conditions which have been included in the recommendation of this report.

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

The north eastern corner of the site is located within the 20-25 Australian Noise Exposure Forecast (2033) Contour whilst the rest of the property proposed to contain the built form is located within the 25-30 Australian Noise Exposure Forecast (2033) Contour.

An Acoustic Report dated 10 February 2015 was submitted with the application which concludes that the development need not be noise attenuated from aircraft noise as Table 2.1 of AS2021 states that a ‘Light Industrial’ development within an ANEF contour less than 30 will be acceptable and as such there is no need for the building construction to provide protection specifically against aircraft noise.

Additionally the Acoustic Report identifies that aircraft noise assessments within light industrial units are not typically undertaken as the noise generated within the use will regularly exceed the recommended internal noise levels of AS2021:2000. On this basis, noise from aircraft flyovers will not have any additional impact on the internal acoustic amenity of the space.

Having regard to the above, acoustic treatment to comply with the requirements of AS 2021—2000 is not necessary for the industrial units proposed on Lot 2.

However, the Masters building is considered to be more akin to a commercial development that must be noise attenuated in accordance with the requirements prescribed under Part 6.5 of MLEP 2011 and AS2021:2000.

Conditions are included in the recommendation requiring noise attenuation measures to be incorporated into the Masters building complying with Australian Standard 2021:2000 in relation to interior design sound levels.

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

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

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application.

8. Marrickville Development Control Plan 2011

An assessment of the development having regard to the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011) is provided below.

PART 2 - GENERIC PROVISIONS

(i) Urban Design (Part 2.1)

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

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

The development is considered acceptable having regard to the relevant aspects of the 12 urban design principles. As discussed throughout the body of this report, the proposal will not result in any significant impacts on the streetscape or amenity of adjoining premises.

(ii) Site and Context Analysis (Part 2.3)

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

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

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

For industrial developments Part 2.5 of MDCP 2011 requires:

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

Proposed Masters Development on Lot 1

The proposal complies with Part 2.5 of MDCP 2011 in the following manner;

- Appropriate access is provided for all persons through the principal entrance to the premises via the provision of 2 lifts adjacent to the entry lobby which contains a travelator for entry to the building;
- A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provided which allows a person with a disability to gain access to all areas within the building; and
- An accessible sanitary facility is provided.

Part 2.5.10 of MDCP 2011 prescribes that a car parking area containing 10 or more car spaces, a minimum of 1 accessible car parking space being provided for every 10 car spaces or part thereof is required. The proposal is required to provide 133 car spaces in accordance with parking rates prescribed by Part 2.10 (Parking) of MDCP 2011. The proposed development only provides for 8 accessible car parking spaces, 5 below the prescribed criteria of 13 spaces. As the proposed development provides car parking well in excess of what is prescribed (a total of 466 spaces), the provision of 5 additional accessible car parking spaces would have very little impact on the overall quantum of spaces provided. The requirement for amended plans to reflect this requirement before the issue of a Construction Certificate is included as a condition in the recommendation of this report.

Proposed Industrial Complex on Lot 2

The information provided with the application indicates that the ground floor level of each proposed unit would be accessible for a person with a disability. The proposed mezzanine levels would not be accessible for persons with a disability, however the layout and design of the industrial units is such that all essential facilities are provided on the ground floor level of each unit. As such it is considered that the inaccessible mezzanine level is reasonable in this instance as all facilities proposed at the mezzanine level are also proposed at the accessible ground floor level.

Amended plans provided illustrate that Unit 10 of the development is elevated/suspended above the natural ground level to ensure the building does not obstruct the overland flow path. However insufficient detail is provided on the plans to demonstrate that this unit complies with accessibility requirements as per Part 2.5 of MDCP 2011. A condition is included in the recommendation of this report requiring the subject building to be accessible in accordance with Council's requirements and the Access to Premises Standards for a new building, with amended plans being provided before the issue of a Construction Certificate illustrating the provision of an accessible principle entry.

The amended application does not propose any accessible car parking spaces on this site. The proposal is required to provide 21 car spaces in accordance with parking rates prescribed by Part 2.10 (Parking) of MDCP 2011 of which 3 spaces are required to be accessible. The proposed development provides a total of 33 car parking spaces, as such the loss of parking spaces to facilitate accessible parking is considered reasonable and is unlikely to affect the operation of the industrial complex. The requirement for amended plans to reflect a revised car parking layout illustrating the provision of 3 accessible car parking spaces is included in the recommendation of this report.

Subject to the amendments identified above, the proposed development is considered reasonable having regard to the access controls contained in MDCP 2011.

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

(iv) Community Safety (Part 2.9)

The layout and design of the proposed development is considered reasonable having regard to community safety. To this extent it is noted that:

- The entrances to the Masters store and the proposed industrial units are well defined and are visible from the street / internal driveway; and
- The landscaping proposed as part of the development does not inhibit the legibility of the entrances.

To ensure community safety is maintained a condition is included in the recommendation of this report requiring details of all lighting to be provided in the communal car parking areas, the central driveway and the entrances to the Masters store and industrial units being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

(v) Parking (Part 2.10)

Lot 1 – Masters Development

The property is located in Parking Area 3 under Part 2.10 of MDCP 2011. The following car, bicycle and motor cycle parking requirements apply to Lot 1 the development:

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

The development requires a total of 133 car parking spaces. In addition a total of 102 bicycle parking spaces (13 for staff and 89 for customers/visitors) and 7 motorcycle parking spaces would be required to be provided.

The amended proposal provides a total of 466 car parking spaces, 20 bicycle spaces and 4 motorcycle spaces.

The application proposes 466 car parking spaces, well in excess of the total number of parking spaces required. This represents a non-compliance of an additional 333 car spaces to what is prescribed.

The applicant has indicated that RMS surveys of the parking demands of home improvement centres have formed the basis of determining the appropriate amount of parking for the proposed development.

Two of the centres used in the surveys (Bankstown and Minchinbury) have areas similar in size to the proposed Masters store. The RMS parking demand surveys found peak parking demands of 318 and 264 spaces at Bankstown and Minchinbury respectively. These demands represent rates of some 2.2 to 2.3 spaces per 100sqm at peak times.

Based on these rates, the proposed Masters store would have parking demands of some 293 to 308 spaces. It is proposed to provide 466 spaces for the proposed Masters store. The excess parking is related in part to the fact that the building must be elevated to accommodate flooding and overland flow paths, which creates a significant undercroft area suitable for parking and little else.

Notwithstanding the non-compliance, the additional parking is considered acceptable having regard to the industrial nature of surrounding development, circumstances of the site and fact that the development is assessed to have acceptable traffic impacts on the local road network.

The proposal does not comply with the prescribed number of bicycle parking spaces, however, it is considered that the requirement for 102 spaces is onerous. The applicant proposes the provision of 20 bicycle spaces located adjacent to the travelator entering the building. It is considered the provision of 50 bicycle spaces would be more appropriate for the proposed development being closer to Council's DCP requirement, and to be located in a similar area. A condition is included in the recommendation of this report requiring the provision of an additional 30 bicycle spaces.

Furthermore, the proposed development is required to provide a total of 7 motorcycle spaces and only provides 4. Having regard to the number of car parking spaces available on the site, parking a

motorcycle in a car parking space is unlikely to have any impact on the quantum of parking available on the site.

Lot 2 – Industrial Units

The property is located in Parking Area 3 under Part 2.10 of MDCP 2011. The following car, bicycle and motor cycle parking requirements apply to Lot 2 of the development:

- 1 car parking space per 200sqm of GFA;
- 1 bicycle parking space per 150sqm GFA for staff; and
- Motor cycle parking provided at the rate of 5% of the total car parking requirement.

The development requires a total of 21 car parking spaces. In addition a total of 28 bicycle parking spaces and 1 motorcycle parking space are required. The application proposes the provision of 37 car parking spaces, 10 bicycle spaces and 1 motorcycle space.

The proposed number of bicycle spaces provided on site does not comply with the prescribed control, however having regard to the proposed use, it is considered the provision of 10 bicycle space as proposed is reasonable given there is ample area within each of the units for staff to store bicycles within the individual industrials units should the need arise.

Vehicle Service and Delivery Area

Clause 2.10.14 of MDCP 2011 prescribes Council’s requirements for vehicle service and delivery areas for industrial developments.

C24 For larger developments, at least one on-site service area must be provided, with the minimum area for vehicle parking being 7.5 metres by 3 metres. The design of service and circulation areas must consider the type of vehicles delivering to the premises and the type of goods being handled. Developments to be serviced by semi-trailers require attention, as these vehicles create significant off-site impacts and consume large areas for movement. It may be appropriate to limit trucks servicing a site to smaller rigid trucks only.

The Masters Store contains a loading dock/receiving area for deliveries and garbage collection. The dock provides for vehicle sizes up to 19 metre semi-trailers and 12.5 metre large rigid trucks. The dock area has been designed in a manner to allow vehicles will enter, manoeuvre into the dock and exit in a forward direction.

Furthermore, each industrial unit proposed on Lot 2 provides a loading dock with the minimum area prescribed above, and as such the proposed development complies with the requirement for a vehicle service and delivery area.

Table 6 in Part 2.10.14 of the DCP prescribes the following truck parking requirements:

<i>‘Commercial Premises-</i>	<i>One truck space per 4,000m2 GFA up to 20,000m2 GFA plus one truck space per 8,000m2 thereafter (50% of spaces adequate for trucks).</i>
<i>Wholesale, industrial-</i>	<i>One truck space per 800m2 GFA up to 8,000m2 GFA plus one truck space per 1,000m2 thereafter (all spaces adequate for trucks).’</i>

Neither site proposes any designated truck parking.

It is anticipated that truck movements associated with the Masters Site relates to delivering and receiving goods from the designated loading area, negating the need for specified parking, however it is noted that the car park provides 466 parking spaces and provides 5 designated trailer

parking spaces which would potentially cater to trade clientele. The need for designated truck parking in this instance is unnecessary and the site has ample on-site parking should the need arise.

With regard to truck parking for the industrial complex on proposed Lot 2, given the size and nature of the industrial units, each of the proposed units contains its own loading dock area for deliveries. On-site car parking is provided in excess of what is prescribed, and as such, the requirement for designated truck parking is unnecessary in this instance as there are facilities on-site which would permit truck parking without specifically being designated in such a manner.

The application was referred to Council's Development Engineer who provided the following comments regarding vehicular access to the site and associated traffic impacts;

"Vehicular access to the Masters site is proposed from both Edinburgh and Sydney Steel Roads. The main access will be via a fourth signalised approach to the existing Edinburgh Road/Smidmore Street signalised intersection. The proposal includes the installation of new right turn bays in both directions on Edinburgh Road, for turns into the site and Smidmore Street. Land will be dedicated for road widening from the subject site to accommodate the proposed intersection modifications. Access to the industrial units is proposed via a two-way vehicular access from Sydney Steel Road with a separate service vehicle exit driveway. Overall 503 car parking spaces have been provided i.e. 466 spaces for the Masters site and 37 spaces for the 10 unit industrial complex.

The application was referred to the Pedestrian, Cyclist and Traffic Calming Advisory Committee and they raised no objection to the development subject to:

- 1 The applicant addressing all the issues raised by the Roads and Maritime Services (RMS) in their letter dated 19 May 2015; and*
- 2 An off-road shared pedestrian/cycle path (minimum 3 metres in width) to being provided along the entire frontage of the subject development site in Sydney Steel Road and Edinburgh Road.*

The application was also referred to RMS and after the provision of additional information by the applicant the RMS has provided in principal approval of the proposal subject to conditions provided in a letter dated 23 July 2015. The conditions proposed by RMS have been included as recommended engineering conditions of consent....".

The conditions of approval recommended by Council's Development Engineer have been included in the recommendation of this report.

(vi) Signage and Advertising Structures (Part 2.12)

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

Signage Proposed for Lot 1

One pylon sign is proposed measuring 12 metres x 4 metres adjacent to the main vehicle entry point from Edinburgh Road. The sign will contain the 'Masters Home Improvement' lettering, the Masters logo and direction to 'customer parking' and the Timber and Building access on Sydney Steel Road.

Signage is also proposed on the north east, south east and south west elevations of the Masters building consisting of:

North eastern elevation:

- One internally illuminated 'Masters Home Improvement' sign of approximately 16 metres x 3.8 metres and 8.6 metres x 3.6 metres for the logo component.
- One 'Garden' sign of approximately 6.3 metres x 1.5 metres.
- One 'Best price guarantee' sign of approximately 17 metres x 3.6 metres.
- Three icons of approximately 5.2 metres x 5.2 metres each.
- 'Timber & building' sign of approximately 14.6 metres x 1.9 metres and 'Access Via Sydney Steel Road' of approximately 14.6 metres x 1.6 metres.
- Car park entry and exit signage of 8 metres x 1.5 metres.

South eastern elevation:

- One 'Timber & building' sign of approximately 14.6 metres x 1.9 metres.
- One 'Timber and building supplies Drive Thru' sign of approximately 6.3 metres x 1.9 metres.
- Three icons of approximately 2.8 metres x 2.8 metres each.
- Car park entry and exit signage of 8 metres x 1.5 metres.

South western elevation:

- One 'Entry' sign of 2.5 metres x 0.7 metres and one 'Exit' sign of 1.8 metres x 0.7 metres.

North west elevation:

- One internally illuminated 'Masters Home Improvement' sign of approximately 8.9 metres x 1.6 metres and 8.9 metres x 2 metres for the logo component.

Control 14 of Part 2.12 of MDCP 2011 prescribes that a flush wall sign must not occupy more than 20% of the associated wall area with a maximum signage area of 8sqm.

The proposed development does not comply with the prescribed control for flush wall signs. This is attributed to the signs being much larger than the 8sqm prescribed. Whilst not adhering to the subject control, having regard to the scale of the building combined with its extensive frontage to Edinburgh Road which spans more than 133 metres, the quantum and size of signs proposed are considered reasonable. The proposed signage occupies 15% of the Edinburgh Road frontage.

In addition to the above, Control 19 of Part 2.12 of MDCP 2011 prescribes that the total permissible area of all signs must not exceed 1sqm of advertising per 3 metre of street frontage up to a maximum area of 10sqm. The building has a 133 metre frontage to Edinburgh Road, thus allowing only 10sqm of signage. The proposed signage does not comply with the signage controls for industrial zones.

The proposed signage and building have been designed as an integrated package that provides a visually cohesive appearance where the building remains as the dominant feature of the façade. The signage has been located on the façade of the building and throughout the car park to facilitate way finding. The majority of the signage is located along the north eastern elevation that fronts the main entrance to the site at Edinburgh Road and some signage along the south eastern elevation that fronts Sydney Steel Road that provides secondary vehicular access.

The name of the premises is clearly displayed along the north east elevation of the building at the main entrance to the site along Edinburgh Road.

The amount of signage proposed is considered acceptable and typical of bulky goods premises of this size.

The proposal seeks internal illumination of the main 'Masters Home Improvement' sign. The closest residence in the vicinity of the site is located approximately over 60 metres away from the subject sign. Control C5 of Part 2.12 of MDCP 2011 prescribes that the ability to adjust the light intensity of illuminated signs may be required to be installed where Council considers it necessary. A condition is included in the recommendation of this report requiring the sign to enable adjustment of light intensity to mitigate any potential/future amenity impacts by way of light spill.

The proposal seeks the installation of a pylon sign to be located in centre of the Edinburgh Road frontage. The sign contains the Masters logo in addition to directional information.

The pylon sign has a height of 12 metres and a width of 3.95 metres.

Control 26 of Part 2.12 of MDCP 2011 prescribes that freestanding pole signs must have a maximum height of 6 metres above ground level, and the sign itself must not exceed 3.5sqm in area.

Whilst the subject sign does not comply with the prescribed controls, having regard to the height of the elevated Masters Store, the sign will not have amenity impacts on surrounding industrial development. The sign does not impede on any views or vistas and is not illuminated. The sign is compatible with the industrial character of the area and is integrated into a landscape setting, whereby the front setback of the Masters Site frontage is to be comprised of trees and landscaping to soften the appearance of the sign and the building.

Signage Proposed for Lot 2

Elevations provided of the Sydney Steel Road frontage indicate the provision of 2 wall panels measuring 3 metres (width) x 4 metres (height). The applicant has indicated that these signs are proposed to be directory signs which have a maximum projection of 250mm from the wall. The proposed illumination of such signage would have no impact on the amenity of the surrounding industrial development. Part 2.12 of MDCP 2011 does not have specific controls for directory signs mounted to the building wall (as it anticipates directory signs to be located on the ground). Notwithstanding, generic industrial signage controls are used as a guide to determine the appropriateness of the proposed signs.

Control 19 of Part 2.12 of MDCP 2011 prescribes that the total permissible area of all signs must not exceed 1sqm of advertising per 3 metre of street frontage up to a maximum area of 10sqm.

The proposed signs are located on 2 separate buildings fronting the site. Each of those buildings has a minimum frontage of approximately 15 metres. The proposed signage area of 12sqm per sign exceeds the prescribed control of 10sqm, notwithstanding this guide does not strictly apply to the subject signage, and it is noted that this industrial site is large and when the size of the sign is compared to the scale of the subject building, it is considered reasonable.

The building is setback 300mm from the front property boundary, however in order to ensure that the proposed signage does not encroach beyond the property boundary, a condition is included in the recommendation of this report requiring plans to be submitted before the issue of a Construction Certificate providing sections and elevations demonstrating that the signage is contained wholly within the property boundary. An additional condition is included requiring that the signage be limited to a business directory for the site with no third party advertising permitted to ensure the intent of the signage is maintained irrespective of future ownership of the site.

(vii) Energy Efficiency (Part 2.16)

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

- “O1** *To provide advice on the principles of energy efficient building design, to improve comfort levels to occupants, and reduce energy consumption.*
- O2** *To ensure buildings are well designed to achieve the efficient use of energy for internal heating and cooling.*
- O3** *To ensure design for good environmental performance and amenity is considered in conjunction with other design and amenity considerations in Marrickville LGA.”*

The proposed development is considered to have been designed in an energy efficient manner. A condition is included in the recommendation of this report requiring the provision of energy efficient fixtures in accordance with Council's requirements.

(viii) Water Sensitive Urban Design (Part 2.17)

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

Council's Development Engineer recommended conditions regarding appropriate WSUD measures. The conditions are included in the recommendation.

(ix) Landscaping and Open Spaces (Part 2.18)

Part 2.18.11.8 of MDCP 2011 prescribes the following landscaping controls for industrial developments:

"C28 Landscaped area

- i. *A continuous minimum landscaped area 1.5 metres wide across the entire frontage of the property, excluding driveways, must be provided. This width must be increased to 2 metres where the site exceeds 600m² and to 3 metres when the site exceeds 1,000m².*
- ii. *For corner sites, a continuous minimum landscaped area 1.5 metres wide across the entire secondary frontage of the property, excluding driveways, must be provided.*
- iii. *If an existing site is to be refurbished or is subject to a change of use application, the required landscaped area will be sought where it is possible without structural alterations.*

C29 Common open space

- i. *A minimum of 5% of the site area must be provided as communal open space to cater for staff recreation and informal social interaction.*
- ii. *Communal open space must be located close to indoor dining areas (if applicable) to encourage greater use of the outdoors.*
- iii. *If an existing site is to be refurbished or is subject to a change of use application, the 5% communal open space will be sought if there is unused land available or excess parking.*

Landscaping Proposed for Lot 1

The subject site exceeds 1000sqm in area and as such is required to have a minimum 3 metre wide landscape area fronting the site. The proposed development provides a variable landscape strip ranging from 2.1 metres to 11.5 metres in width along the Edinburgh Road frontage. Whilst not strictly adhering to the minimum 3 metres, only a small portion of the landscaped frontage is 2.1 metres in width (less than 5%) with the majority of the landscape strip being predominantly greater than 4 metres in width.

Amended landscape plans have been submitted after consultation with Council staff regarding appropriate tree planting to adequately screen the development and contribute to the urban forest canopy. The amended plans have been reviewed by Council's Tree Management Officer who has noted the revised tree planting scheme is consistent with Council's Street Tree Masterplan.

Control 28 as identified above requires that the secondary frontage, i.e., Sydney Steel Road, have a minimum landscape strip of 1.5 metres.

Landscaping along the Sydney Steel Road frontage varies from 1.3 metres for 6.1 metres, which is generally consistent with the prescribed control with the majority being greater than 2 metres.

Control 32 of Part 2.18 of MDCP 2011 prescribes that any outdoor ground level car park containing five or more parking spaces must provide one shade tree for every five car spaces, with foliage or canopy with a clean trunk to 2 metres. Tree root barriers must be installed around the edge of planter beds to reduce future maintenance and damage to underground services.

The application originally lodged did not propose any landscaping within the car park other than that provided along the frontage of the site. After consultation with Council Officers the car park has been amended to provide landscaping and trees within the car park. The amount of trees provided does not comply with the DCP requirement which would require the provision of 19 trees. Compliance with the DCP requirement would severely constrain the ability to provide a reasonable level of parking within the front setback of the site. The application proposes 5 advanced Weeping Lilly Pilly trees of which the eastern side of the outdoor car park also contains a landscape strip along the edge of the centrally located car parking spaces.

The Weeping Lilly Pilly trees proposed to be planted within the car park are surrounded by permeable pavers to ensure that there is adequate structural soil depth to support the growth of the trees, noting that they will provide significant shade and canopy in association with a mature height of up to 20 metres.

Whilst Council supports landscaping within the car park, the 1.5 metre wide landscape strip arrangement proposed on the eastern side of the car park needs to be amended to ensure it does not conflict with the ability to adequately park vehicles. The car spaces proposed are 4.8 metres in length permitting an overhang of the vehicles over the landscape area (of 600mm to comply with the minimum car parking requirement of 5.4 metres). However the planting schedule indicates that one of the proposed species in the centre of the landscape strip grows to a mature height of 0.7 metres which may impact on the ability to safely park vehicles. A condition is included in the recommendation requiring an amended landscape plan be provided before the issue of a Construction Certificate relocating the proposed 'Giant Liriope' from the centre of the landscape strip (adjoining the central car parking spaces), to the northern edge of the landscape strip (furthest away from the car spaces). The 'Star Jasmine' proposed in the landscape strip has a mature height of 0.2 metres and would not impact on the ability of vehicles parking within the subject spaces.

Landscaping Proposed for Lot 2

Control 28 of MDCP 2011 requires a continuous minimum landscaped area 3 metres wide across the entire frontage of the property. The proposal provides a landscape strip of 300mm at the front of the site. The appropriateness of the building setback has been discussed in greater detail under Part 6 – Industrial Development, and having regard to the adjoining site context of other industrial developments constructed with little or no front setback, combined with providing a shared 3 metre wide pedestrian/cycle path at the front of the site and dedicating this land to Council, the reduced setback and reduced landscaping along the frontage of the site is considered reasonable having regard to streetscape considerations.

Part 2.18.11.9 of MDCP 2011 contains the following control for the internal landscaping for multi-unit industrial developments:

“C30 *Multi-unit industrial complexes must provide internal landscaped areas in addition to front landscaping, in accordance with the following requirements:*

- i. Multi-unit industrial complex must avoid long blank walls and paved surfaces by introducing internal landscaped areas.*
- ii. Trees or shrubs must be located to allow traffic movement and sight lines along access ways and driveways.*
- iii. Shrubs and plants must not obscure visibility through front fences.”*

The amended proposal provides a 600mm wide landscape strip along the entire southern wall of the development to soften the appearance of the long façade. The amended proposal also provides landscaping at the rear of the site surrounding the car parking area which provides opportunity for tree planting. The proposed landscaping does not impede traffic movement or sightlines and softens the expanse of blank wall along the southern facade satisfying the provisions of control 30 of Part 2.18.11.9 of MDCP 2011.

The conditions recommended by Council’s Tree Management Officer are included in the recommendation and the landscape plan is referenced as an approved plan in condition 1.

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

2.21.3 Public utilities

A condition is included in the recommendation advising the person acting on the consent to liaise with the relevant authorities/service providers for public utilities (Sydney Water Corporation, Ausgrid, AGL and Telstra) concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

2.21.5 Building identification numbers

A condition is included in the recommendation requiring appropriate numbering details to be submitted in accordance with Part 2.21.5 of MDCP 2011.

2.21.7 Recycling and Waste Management Plan/ 2.21.12 Waste Facilities

A Recycling and Waste Management Plan (RWMP) was submitted with the application. Whilst the submitted information details waste management procedures and requirements during demolition and construction, the waste management plan lacks sufficient detail regarding a nominated garbage storage area and waste management practises for the on-going management/operation of the Masters Site on Lot 1. A Recycling and Waste Management Plan (RWMP) prepared in accordance with Council’s requirements should be submitted to the Principal Certifying Authority prior to the commencement of works. A condition to such effect has been included in the schedule of conditions.

It is acknowledged that the proposed development on Lot 2 would seek individual RWMP’s when an application for the first use of each industrial unit is in place, and the submitted RWMP for the demolition/construction phase of the development is considered acceptable in this regard. The industrial units are of a size which would have ample capacity for an adequate garbage storage area, and vehicle access to the site is sufficient to enable garbage truck movements throughout the site without impeding on the operation of the industrial complex.

PART 3 – SUBDIVISION, AMALGAMATION AND MOVEMENT NETWORKS

MLEP 2011 does not set any minimum lot area for Torrens title industrial subdivision or amalgamation, as the required lot area varies widely. A merit assessment will consider what is appropriate, depending on the location and circumstances. Part 3.2.4 of MDCP 2011 prescribes the following requirements for industrial Torrens title subdivisions:

C9 *Torrens title subdivision developments with lots less than 600m² or width less than 20m must be accompanied by a conceptual plan for the industrial development of the site, demonstrating that proposed lots have area, dimensions and a layout that allow for an industrial use that complies with this DCP and is suitable to the location and circumstances.*

C10 *The depth to width ratio of new lots must not be greater than 4:1.*

C11 *If a battleaxe type subdivision is proposed, any access driveway must be a minimum width of 6m.*

The proposed development complies with the prescribed controls in the following manner;

- The proposed Torrens Title subdivision results in two lots where the Masters store and industrial units result in lot areas equal to 20,718m² and 6,780m² respectively and widths greater than 20m;
- The depth to width ratio of Lot 2 is less than 4:1; and
- No battleaxe subdivision is proposed.

The proposed allotment sizes satisfy the provisions of Part 3.2.4, as the allotment sizes allow for the erection of a reasonable industrial development which generally satisfy the design parameters contained in MDCP 2011. The allotment sizes are also considered to complement the allotment sizes and dimensions of the surrounding area.

Part 3.3 of MDCP 2011 contains controls relating to strata title subdivision. The application seeks approval to strata subdivide the industrial building on Lot 2. The strata subdivision of the development is acceptable, as each strata lot will have access to all common areas and facilities such as car parking spaces, waste facilities and bicycle spaces. Conditions are included in the recommendation regarding the strata subdivision for the proposal.

Part 3.5 of MDCP 2011 relates to subdivisions and major developments that may create or impact on movement networks or affect the functionality of the public domain.

Control 23 of Part 3 of MDCP 2011 prescribes that a subdivision or major development must include a new street or pedestrian/cycle path or open space where there is the potential for it to provide an appropriate street connection whilst Control 24 prescribes that any proposed new street or pedestrian/cycle path or open space connections must be dedicated to Council as public land, or otherwise have right of way legal entitlement as part of the proposal, to allow for public access in perpetuity.

The amended proposal provides for a 3 metre wide pedestrian/cycle way along the frontage of the site which is to be dedicated as Council land (as indicated on amended subdivision plans), therefore satisfying the requirements of Part 3 of MDCP 2011.

PART 6 - INDUSTRIAL DEVELOPMENT

Marrickville Development Control Plan 2011 for Industrial Development prescribes development standards for the erection of industrial buildings. The table below demonstrates compliance with the technical standards contained in the DCP for Lot 1:

	Required	Provided	Compliance
Minimum Frontage	20 metres	150 metres	Yes
Front Boundary Setback	3 metres or predominant setback	25m – 35m Edinburgh Road frontage	Yes

As is illustrated above, the proposed development generally complies with the technical standards contained in MDCP 2011 for Industrial Development.

A variable setback of approximately 25-30 metres is proposed to Edinburgh Road to accommodate the Sydney Water stormwater culvert and easement, which transverses the northern third of the site. Sydney Water requires that the culvert is accessible for maintenance at all times, hence the generous front setback. Notwithstanding, the setback on the Sydney Steel Road component of the development varies from 1.3 metres to a 6 metre setback. Development in the vicinity of the site in this section of Sydney Steel Road have variable front setbacks, with a few developments being constructed to the boundary, the variable side setback proposed for the secondary frontage of this development is considered reasonable having regard to the adjoining site context.

The table below demonstrates compliance with the technical standards contained in the DCP for Lot 2:

	Required	Provided	Compliance
Minimum Frontage	20 metres	53 metres	Yes
Front Boundary Setback	3 metres or predominant setback	300 mm	Yes, see comments below

The proposed industrial units on Lot 2 have a 300mm setback to Sydney Steel Road. Control 31 of Part 6 of MDCP 2011 prescribes that where a predominant front setback of adjoining industrial buildings cannot be established, a 3 metre setback from the front boundary is required.

The development at 1A Sydney Steel Road directly across from the proposed development has a nil side setback to Sydney Steel Road. Accordingly, there is little enhancement of this street on the opposite side of Sydney Steel Road which has previously been considered appropriate in context of the surrounding development.

Surrounding development consists of large floor plate development within an established industrial area and therefore a minimal setback to this frontage is considered consistent with the streetscape character.

Given the lack of residential uses or sensitive uses surrounding this frontage there will not be any amenity impact on adjoining development as a result of the proposed industrial development.

Accordingly, the proposed 300mm setback of the industrial units on Lot 2 to Sydney Steel Road is considered appropriate in this instance.

Part 6.3.4 of MDCP 2011 prescribes the following with the regard to the size of industrial units:

- C55** *Units must be of a size to accommodate uses permissible within the zoning. Council may require evidence of market demand and the type of potential industrial uses where sizes of proposed units are less than 100m².*
- C56** *The applicant must demonstrate that the potential use and associated operations, including the storage of raw materials, finished products, trade wastes and recycling bins, are contained wholly within the industrial unit.*
- C57** *The applicant must demonstrate that all vehicle parking and movement can be contained within the site.*

The proposed industrial units range in size from 348sqm to 635sqm. The large floor plates of the units provides adequate capacity for a range of industrial uses (subject to development consent) to occupy the site. The size of the units ensures that storage of goods including trade waste and recycling bins can be stored wholly within the industrial unit. The main access to the units is provided from Sydney Steel Road with allocated entry and exit points to allow appropriate circulation and high functionality of the site.

9. Trading Hours

Development on Lot 1

The following operating hours are proposed for the Masters store:

- Monday to Friday: 6:00am to 10:00pm
- Saturday and Sunday: 6:00am to 9:00pm

Development on Lot 2

The development on Lot 2 seeks the following operating hours:

- Monday to Sunday: 6:00am to 10:00pm

A Noise Impact Assessment was submitted with the application to identify potential noise sources and potential amenity impacts on any residences in the vicinity of the site (having particular regard to the Masters Store). The report concludes that any potential for sleep disturbance as a result of the proposed development and associated traffic movements will be insignificant when compared to noise events occurring in the existing environment.

The proposed trading hours are considered reasonable and unlikely to have any amenity impacts on surrounding development. The proposed operating hours for the industrial units on Lot 2 are unlikely to have any amenity impacts on surrounding development, as adjoining development on Sydney Steel Road is comprised of industrial development only, and as such operation of the units in this complex are unlikely to have any negative impacts as a result of trade.

10. Marrickville Section 94/94A Contributions Plan 2014

A Section 94A levy of \$327,030 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that levy to be paid is included in the recommendation.

11. Community Consultation

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. 13 submissions were received raising the following concern has already been discussed throughout the main body of this report:

- (i) *"Increase in noise from truck movements"*

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

- (i) *"The absence of a bike path reduces the likelihood of bike business to the hardware store. I regularly ride my bike to shop at Bunnings on McEvoy Street and there are always a number of bikes in the bike racks. Bicycle business is not unthinkable at a hardware store. I would much prefer to shop closer to home (which the proposed Master store is) however I will not compromise on my safety."*

Comment:

After consultation with Council Officers, the application has been amended since it was originally lodged with Council. The amended proposal provides a 3 metre wide shared pedestrian/cycle path around the perimeter of the site, ensuring that the bicycle path connects the site in accordance with

the manner prescribed in Marrickville Council's Bicycle Strategy maintaining a connection to the regional bicycle route (Eastern Suburbs to Sydenham). The site also provides bicycle spaces on the site to accommodate cyclists visiting the premises.

- (ii) *"The area doesn't need another hardware store. There is a Mitre 10 on Marrickville Road and 2 Bunnings within a 5 minute drive. The hardware store on Enmore Rd only closed a few years back due to the poor demand in the area for a hardware store.*

There are already sufficient businesses in the area that provide the type of goods that would be available through the Masters Home Improvement store."

Comment:

At the rezoning stage Council expressed its opposition to stand alone "big box" retailing on the site, however, despite this, the use was approved by the Department of Planning through the amendment of Schedule 1 of MLEP 2011 to include 'garden centre and hardware and building supplies" on this site. Therefore, the proposal is a permissible form of development and must be assessed accordingly.

In respect of the economic impacts of the proposed Masters store, it is noted that the objection is speculative in nature and has not been substantiated/supported by any form of retail impact assessment. From a planning perspective the proposed use is both a permissible use and compatible with the existing character of the industrial area.

- (iii) *"... children, women and men with prams and the elderly already have to use extreme care when trying to cross the roads because large trucks find it difficult to stop in time. Large delivery trucks will increase with this"*

Comment:

Additional traffic signals and the provision of a pedestrian path seek to mitigate impacts on pedestrians.

- (iv) *"... while the modelling considers scenarios which include the proposed local road changes associated with the Metro development, it uses traffic volumes that do not include an increase due to the Metro development. The traffic volumes used assume only the current traffic plus additional traffic due to the Masters development. This is unrealistic and renders the conclusions inaccurate.*

Future development, such as the proposed widening of Campbell Rd, St Peters, as part of WestConnex will only exacerbate local traffic problems associated with this application.

Despite its deficiencies, the traffic model clearly shows an unacceptable wait times for West bound Edinburgh Rd traffic at the intersection with Victoria Road with wait times of up to 93 seconds (table C2.6). To alleviate this, the application proposes to remove 55 metres of on street parking or approximately 7 spaces (sections 3.24 and 3.36vii) from Edinburgh Rd where parking is already difficult to find for local residents who generally have no off street parking option. Parking along this section of Edinburgh Rd is also used by a number of local businesses. Given that the traffic modelling fails to anticipate future traffic increases associated the Metro development the adequacy of this proposed solution is called into question."

The Traffic Impact Assessment indicates that with the proposed road upgrade works, the surrounding traffic network will be able to accommodate the additional traffic from the proposed development. The proposal includes an upgrade to the traffic signals at Edinburgh Road/Smidmore Street, including right turn bays in both directions on Edinburgh Road and a fourth signalised

approach to provide access to the Masters store. This is to be undertaken by the applicant and forms part of the proposed development.

Contrary to the submission provided above, the Traffic Impact Assessment submitted does analyse traffic movements associated with an upgraded Marrickville Metro in accordance with the parameters prescribed by Council.

The application has been reviewed by the Roads and Maritime Services, Council's Pedestrian, Cyclist and Traffic Calming Advisory Committee and Council's Development Engineer who have raised no objection to the proposed development subject to the imposition of a number of conditions which are included in the recommendation of this report.

It is noted that traffic generated by the proposed development will have its greatest impact during weekday afternoons and Saturday peak periods when it combines with other traffic on the surrounding road network. A Paramics model was calibrated using traffic counts undertaken at the study intersections, observations of queue lengths; travel time surveys and intersection diagnosis monitor (IDM) traffic signal data from RMS.

The analysis found that existing delays at the Edinburgh Road intersections are due to westbound queuing on Edinburgh Road approaching the Victoria Road intersection with left turning vehicles on this approach being blocked by vehicles waiting to turn right.

It is proposed to upgrade the signalised intersection of Edinburgh Road with Smidmore Street to provide for access to the site. Further, to improve the operation of the Edinburgh Road/Victoria Road intersection (from that which currently exists) and reduce the queue, the length of the No Parking Zone is proposed to be increased to 55 metres on the Edinburgh Road westbound approach to the intersection during weekday afternoon peak periods. In this regard it is noted that there is no resident's parking scheme in place along this stretch of Edinburgh Road and there are approximately 8 residences located within the 55 metre section of Edinburgh Rd that would be signposted "No Parking", of those dwellings, 4 have off-street parking.

Accordingly, the impact of providing for an extended No Parking Zone would have minimal impact for local residents during restricted hours of the day and provide a solution to an existing traffic problem.

Council acknowledges these type of restrictions on kerbside parking are not preferred, however the traffic management solution endorsed by the RMS and Council's Pedestrian, Cyclist and Traffic Calming Advisory Committee required this intervention to mitigate and address existing and future traffic queuing as this intersection.

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

12. Conclusion

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

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011, with the exception of some departures from MDCP 2011 which are considered reasonable having regard to adjoining site context and site constraints.

However, a small portion of the Masters building conflicts with the zoning provisions applying to the land and to overcome the permissibility constraints, the application is considered suitable for the

issue of a deferred commencement consent with the building to be slightly amended to resolve this permissibility issue. Subject to this minor design change, the proposal is satisfactory subject to the imposition of appropriate terms and conditions.

PART E - RECOMMENDATION

- A. THAT** the development application to demolish existing improvements and Torrens title subdivision of the site into 2 allotments and construct and fit out a 13,350sqm Masters Home Improvement store including vehicle access, loading, car parking and landscaping on Lot 1 and construct 10 industrial units varying from 348sqm to 635sqm including vehicle access, loading, car parking and landscaping on Lot 2 be **APPROVED** and a **DEFERRED COMMENCEMENT CONSENT** be issued subject to the following terms and conditions:

PART A - DEFERRED COMMENCEMENT CONSENT

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

- Amended plans being submitted to the satisfaction of the Council demonstrating the introduction of a splay in the north western corner of the Masters building to ensure that the built form of the hardware and building supplies centre does not extend over Lot 3 in DP180969 being a portion of the stormwater easement zoned SP2 – Stormwater Management Systems.

Reason: To ensure the proposal is a permissible form of development

Evidence of the above matters must be produced to the Council or its delegate within 2 years of the date of this Determination otherwise the Consent will lapse.

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA01 Rev E	Site Plan	24/7/15	Leffler Simes	30/7/15
DA02 Rev E	Basement	24/7/15	Leffler Simes	24/7/15
DA03 Rev B	Ground floor masters	2/4/15	Leffler Simes	16/4/15
DA04 Rev B	Roof plan Masters	2/4/15	Leffler Simes	16/4/15
DA05 Rev B	Elevations Masters	2/4/15	Leffler Simes	16/4/15
DA06 Rev B	Sections Masters	2/4/15	Leffler Simes	16/4/15
DA07 Rev B	Floor Plan Industrial Units	15/7/15	Leffler Simes	15/7/15
DA08 Rev A	Roof plan	20/3/15	Leffler Simes	16/4/15
DA09 Rev C	Elevations Industrial Units	24/7/15	Leffler Simes	30/7/15
DA10 Rev B	Section Industrial Units	15/7/15	Leffler Simes	15/7/15
SA00 Rev B	Signage aerial	2/4/15	Leffler Simes	16/4/15

	view			
SA01 Rev B	Site plan signage	2/4/15	Leffler Simes	16/4/15
SA02 Rev B	Signage elevations	2/4/15	Leffler Simes	16/4/15
SA03 Rev A	Signage elevations	2/4/15	Leffler Simes	16/4/15
SA04 Rev B	Ancillary signage	2/4/15	Leffler Simes	16/4/15
-	Acid Sulphate Soils Management Plan	3/2/15	Enviromental Investigation Services	16/4/15
SI0102	Hazardous Materials Survey report	9/2010	Noel Arnold & Associates	16/4/15
	Plan of Subdivision	18/9/2015	LTS Lockley	18/9/15
SS14-2887_000, SS14-2887_101 &102, SS14-2887_501 &502	Landscape plans	14/8/15	Site Image Landscape Architects	17/8/15
SS14-2887_103 and 104	Landscape plans	28/7/15	Site Image Landscape Architects	17/8/15
Rev 3	Noise impact assessment	10/2/15	Acoustic Logic	16/4/15

and details submitted to Council on 16 April 2015, 22, 28 and 30 July 2015 and 5, 10,13, 17 and 18 August 2015 with the application for development consent and as amended by the matter referred to in Part A of this Determination and the following conditions.

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

2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:
 - a) the plans and/or information approved under this consent; or
 - b) any relevant requirements of this consent,

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

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

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

3. The development is to be carried out in a manner which ensures Stage 1 of the development, i.e., the Masters Site is completed prior to the commencement of Stage 2 of the development.

Reason: To confirm the terms of Council's approval and that the terms of the consent do not impact on infrastructure works required to be carried out.

4. Separate Development Consent or Complying Development Certificate must be obtained for the use of the industrial units prior to the occupation of that part of the premises on Lot 2.

Reason: To advise the applicant of the necessity of obtaining Council approval for the use of the industrial units prior to their occupation.

5. No retailing must be carried out from the industrial units on Lot 2.
Reason: To confirm the terms of Council's approval and to ensure future uses are permissible.
6. The entire premises on Lot 1 (i.e., the Masters Store) must be used as a single occupancy for the use approved in this development consent with the mezzanine area being used exclusively in association with the approved use and not being sublet or used for any other purpose.
Reason: To ensure that the premises are used as a single occupancy.
7. 461 off-street car parking spaces must be provided, paved and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking on Lot 1. 13 spaces of the total car spaces must be allocated as accessible car parking spaces and marked as disabled car parking spaces.
Reason: To ensure practical off-street car parking is available for the use of the premises.
8. 30 off-street car parking spaces must be provided, paved, linemarked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking on Lot 2. 3 spaces of the total car spaces must be allocated as accessible car parking spaces and marked as disabled car parking spaces.
Reason: To ensure practical off-street car parking is available for the use of the premises.
9. All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose.
Reason: To ensure adequate manoeuvrability to all car parking spaces and that the spaces are used exclusively for parking.
10. No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.
11. The use of the premises, including any plant and equipment, must not give rise to:
- a) transmission of unacceptable vibration to any place of different occupancy;
 - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
- Reason: To prevent loss of amenity to the area.
12. The signage on Lot 1 must be erected substantially in accordance with the Plan No/s. SA00 to SA04 inclusive dated 2 April 2015 and details submitted to Council on 16 April 2015 with the application for development consent as amended by the following conditions.
Reason: To confirm the details of the application as submitted by the applicant.
13. The signage on Lot 2 must be erected substantially in accordance with the Plan No/s. DA09C dated 24 July 2015 and details submitted to Council on 16 April 2015, 30 July 2015 and 5 August 2015 with the application for development consent as amended by the following conditions.

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

14. Illuminated signage on the Masters Store on Lot 1 must be installed in manner which enables the luminosity of the signage to be adjusted at the discretion of Council. Illuminated signage shall not be switched on outside approved hours of operation of the Masters Store.

Reason: To ensure the signage is installed in a manner to mitigate any potential/future amenity impacts by way of light spill.

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

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

16. The advertising structure(s) and associated advertisement(s) must be properly and safely maintained at all times.

Reason: To ensure that the signage does not have any detrimental effect upon the amenity of the area or endanger the safety of the public.

17. Any advertisement to be displayed must be only to identify the premises, the occupier of the site, the activity conducted thereon or the goods and services available on the premises associated with the use approved in this development consent.

Reason: To ensure that all signage on the premises relates to the approved use.

18. The signage must:

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

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

19. No storage of goods or equipment external to any building on the site is permitted.

Reason: To ensure the premises are kept in a neat and tidy manner.

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

Reason: To prevent the public footpath from being obstructed.

21. All loading and unloading in connection with the use on Lot 1 and Lot 2 must be carried out from the loading dock within the premises. Such dock must be maintained at all times for the loading and unloading of goods and must be used exclusively for that purpose and not for storage or any other purpose. Loading/unloading may only occur during approved trading hours.

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

22. The hours of operation of the Masters Store on Lot 1 must be restricted to between the hours of 6:00am to 10:00pm, Monday to Fridays and 6:00am to 9:00pm on weekends and Public Holidays.

Reason: To confirm the hours of operation as requested.

23. The hours of operation for the Industrial Units on Lot 2 must be restricted to between the hours of 6:00 am to 10.00pm seven days a week with no trading on Public Holidays.
Reason: To confirm the hours of operation as requested
24. It may be necessary for the installation of a suitable electrical sub-station for the distribution of electrical power in this area to be located on the land, and that an area of land suitable for Ausgrid to provide such an installation be set aside for this purpose. Before proceeding with your development further, you are directed to contact the General Manager of Ausgrid, George Street, Sydney, with respect to the possible need for such an installation immediately or in the future.
Reason: To provide for the existing and potential electrical power distribution for this development and for the area.
25. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
NOTE: A private electricity post/pole cannot be erected at the front of a property without having first obtained approval from Council. Council discourages the installation of private electricity posts/poles and any application for such a structure must be accompanied by a written document justifying/identifying the need for the pole's installation.
Reason: To ensure that the development is adequately serviced and does not adversely impact on the visual amenity of the area.
26. Trees 13, 15, 18, 19, 20, 46, 47, 48, 49, 50 and 74 shall be retained and protected in accordance with the recommendations of the Arboricultural Impact Appraisal and Method Statement (Naturally Trees, 15/7/15).
Reason: To clarify which trees shall be retained and protected.
27. Trees on Lot 2 that are proposed to be removed (trees 51-75) shall be retained and protected until Stage 2 commences.
Reason: To retain trees to provide urban forest benefit for as long as practical until they need to be removed to facilitate Stage 2 of the development.
28. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
Reason: To ensure the work is carried out to an acceptable standard and in accordance with the National Construction Code (Building Code of Australia).

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

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

29. No work must commence until:
- A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
 - A minimum of 2 days written notice must be given to Council of the intention to commence work.
- Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

30. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

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

31. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

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

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

32. All demolition work must:

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

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

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

Reason: To protect the amenity of the area.

34. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.

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

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

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

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

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

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

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

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

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

38. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and must be submitted to and accepted by the PCA. A copy of the Plan must be submitted to and accepted by PCA before work commences. The plan must indicate:

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

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

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

39. The person acting on this consent is responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at 10-14 Lillian Fowler Place and 16 Lillian Fowler Place, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

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

40. If a new street number or a change to the street number is required, a separate application must be made to and approved by Council prior to that street number being displayed.

Reason: To ensure that the building is easily identifiable.

41. Prior to the commencement of works a project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Marrickville local government area shall be engaged for the duration of demolition, earthworks, construction and landscaping.

Reason: To provide guidance and oversee the protection and management of trees.

42. Prior to the commencement of works, including demolition and earthworks, tree protection measures shall be established in accordance with the Arboricultural Impact Appraisal and Method Statement (Naturally Trees, 15/7/15) and any additional instructions by the project arborist in relation to effective tree protection.

Reason: To ensure that trees are effectively protected and managed so that their stability and ongoing viability is not compromised.

43. Prior to the commencement of works, including demolition and earthworks, the project arborist shall specify tree protection measures for the trees in Lot 2 (trees 51-75).

Reason: To ensure that the trees being retained in the short term until the commencement of Stage 2 are protected and managed so that in the eventuality that Stage 2 does not proceed, the retention value of the trees in Lot 2 has not diminished unnecessarily.

44. Prior to the commencement of works the project arborist shall inspect tree protection measures, including the location of tree protection fencing and signage, and certify in writing

to the Principal Certifying Authority the measures comply with the Arboricultural Impact Appraisal and Method Statement (Naturally Trees, 15/7/15), the tree protection measures specified for trees in Lot 2 (trees 51-75) and any additional instructions by the project arborist with respect to tree protection.

Reason: To ensure that trees are effectively protected and managed so that their stability and ongoing viability is not compromised.

45. Tree protection measures detailed in the Arboricultural Impact Appraisal and Method Statement (Naturally Trees, 15/7/15), the tree protection measures specified for trees in Lot 2 (trees 51-75), tree protection measures outlined in Section 4 of Australian Standard *Protection of trees on development sites* AS 4970—2009, and any additional instructions by the project arborist with respect to tree protection shall be implemented and complied with for the duration of works including demolition, earthworks, construction and landscaping (except where conditions permit otherwise).

Reason: To ensure that trees are effectively protected and managed so that their stability and ongoing viability is not compromised.

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

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

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

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

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

Reason: To secure the site and to maintain public safety

49. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include proposed truck parking areas, construction zones, crane usage, truck routes etc.

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

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

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

51. With regard to the Traffic Control Signal design, the developer must enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD must be executed prior to Roads and Maritimes assessment of the detailed civil design plans. A copy of the WADPack is available at www.rms.nsw.gov.au. Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer before the commencement of works.

Reason: To comply with the requirements of the RMS.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 1 OF THE DEVELOPMENT (MASTERS STORE ON LOT 1)

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

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

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

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

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

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

53. A levy of \$327,030.00 has been assessed as the contribution for the development under Section 94A of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 94A Levy referred to above is based on the estimated cost of the proposed development at time of lodgement of the application indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 94A levy (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) or credit card*** before the issue of a Construction Certificate or a Torrens Title Subdivision Certificate (whichever occurs first). Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 94A levies **CANNOT** be made by Personal Cheque or Company Cheque.

*NB A 1% credit card transaction fee applies to all credit card transactions.

(LEVY PAYMENT REFERENCE NO. DC001127)

NOTE: Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.

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

that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2000.

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

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

Reason: To provide safe, equitable and dignified access to a building and its services and facilities.

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

- a) Access to the premises via the principal place of entry to the building, complying with AS 1428.1- 2009 'Design for access and mobility';
- b) An accessible toilet complying with AS 1428.1- 2009 'Design for access and mobility';
- c) The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement;
- d) An accessible counter complying with AS 1428.2 - 2001 'Design for access and mobility'; and
- e) A minimum of 13 car parking spaces must be provided for people with a disability that are directly accessible to the entrance to the building. The car parking must be designed to comply with AS 1428.1 - 2009 'Design for access and mobility - General requirements for access - buildings' and AS 2890.1 1 'Off-street car parking'.

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

57. An amended landscape plan must be submitted to the satisfaction of the Certifying Authority before the issue of a Construction Certificate amending Drawing NoSS14-2887_102_H illustrating that all planting adjacent to 4.8 metre length car parking spaces which require a 600mm overhang shall be no higher than 200mm. The proposed 'Giant Liriope' shall be relocated from the centre of the landscape strip (adjoining the central car parking spaces), to the northern edge of the landscape strip (furthest away from the car spaces).

Reason: To ensure the proposed planting scheme does not interfere with the safety of vehicles parking in the 4.8 metre length car parking spaces which require a 600mm overhang.

58. An amended basement plan being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate showing the provision of total of 50 bicycle spaces adjoining the travelator adjacent the main building entry.

Reason: To ensure the site provides for adequate bicycle parking.

59. Lighting details of the communal car parking areas, the central driveway and the entrances to the industrial building being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

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

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

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

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

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

62. The person acting on this consent shall pay to Council Section 138 (Roads Act) inspection fees in the amount of \$434.70 (GST inclusive) before the issue of a Construction Certificate to ensure the proper completion of the public domain civil works resulting from this development.

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

63. Payment of a Bond, in the sum of \$190,000.00 for the proper performance of Road and drainage works before the issue of the Construction Certificate. The security may be provided in one of the following methods:-

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

Reason: To ensure all road and drainage works are completed within a reasonable time and to a satisfactory standard.

64. The proposed traffic signals at the intersection of Edinburgh Road/Smidmore Street shall be designed to meet Roads and Maritimes requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner. Provision in the cabling and the location of the traffic signal posts must be designed to cater for a right diamond phase on Smidmore Street/Access Road. The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on www.rms.nsw.gov.au). The certified copies of the civil design shall be submitted to Roads and Maritime for consideration and approval before the issue of a Construction Certificate by the Certifying Authority and commencement of road works.

Reason: To comply with the requirements of the RMS.

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

- a) Details of all ramp grades and transitions;
- b) Details of all signage and line marking proposed within the carpark and at the driveway accesses;
- c) The provision of traffic control devices such as speed humps where parking aisle lengths are more than 100m in accordance with Clause 2.3.3 of AS 2890.1-2004; and
- d) The provision of adequate pedestrian circulation in accordance with Clause 4.1 of AS 2890.1-2004.

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

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

66. The stormwater drainage concept plans DA4.01 (Rev A), DA4.02 (Rev C), DA4.03 (Rev C) DA4.04 (Rev B), DA4.05 (Rev A), DA4.11 (Rev A), DA4.12 (Rev A) and DA4.13 (Rev A) and

the proposed water quality treatment measures are generally acceptable subject to the following amendments/additional details being submitted to and approved by Council before the issue of a Construction Certificate;

- i. Detailed construction plans of all stormwater treatment measures as detailed in the Northrop Letter dated 14/7/15 and the submitted MUSIC file-141204-74 Edinburgh Road, Marrickville.sqz;
- ii. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken;
- iii. Detailed design and calculations of the proposed On-Site Detention systems including the submission of DRAINS files;
- iv. Amendments to plan DA4.04 (Rev B) to reflect changes in the architectural plan DA01 (Rev E). The amendments shall include detailed levels at the southern western corner of the site to ensure the existing overland flow path is maintained; and
- v. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system.

Reason: To provide for assessment of the proposed stormwater drainage.

67. As identified in the Flood Impact Study by Hydro Storm Consulting dated 23/3/15 the site is subject to flooding during a 1 in 100 year storm event. The Flood Planning Level for proposed Lot 1 is RL4.65m AHD. The following flood protection measures shall be undertaken as follows:

- i. The minimum internal floor level shall be set at or above the Flood Planning Level for the respective Lots;
- ii. All structures below the Flood Planning Level shall be constructed from flood compatible materials;
- iii. All electrical equipment, wiring or any other services and connections shall be waterproofed or installed above The Flood Planning Level;
- iv. The applicant shall demonstrate that the new additions will be able to withstand the forces of flood water and debris during a 1 in 100 year flood event; and
- v. The storage of toxic or potential polluting goods, materials or products, which maybe hazardous or pollute waters during property inundation, shall be stored above The Flood Planning Level.

Detailed plans and specification of the above requirements shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To protect the site and occupants from rising flood waters during a 1 in 100 year storm event.

68. All footings adjacent to stormwater pipes and or channels shall be designed so that no surcharge loads are placed on the pipes and or channels. Plans, and supportive documents, detailing the proposed foundations adjacent to the stormwater drainage systems, shall be submitted to and accepted by Council before the issue of a Construction Certificate.

Reason: To protect Council's drainage system.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 2 OF THE DEVELOPMENT (INDUSTRIAL UNITS ON LOT 2)

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

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

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

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

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

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

Reason: To provide safe, equitable and dignified access to a building and its services and facilities.

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

- a) Access to the premises via the principal place of entry to each industrial unit, complying with AS 1428.1- 2009 'Design for access and mobility';
- b) An accessible toilet complying with AS 1428.1- 2009 'Design for access and mobility'; and
- c) A minimum of 3 car parking spaces must be provided for people with a disability that are directly accessible to the entrance to the building. The car parking must be designed to comply with AS 1428.1 - 2009 'Design for access and mobility - General requirements for access - buildings' and AS 2890.1 1 'Off-street car parking'.

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

72. Before the issue of a Construction Certificate amended plans being submitted to the satisfaction of the Certifying Authority illustrating that the 2 directory wall signs on the Sydney Steel Road elevation shall be located wholly within the property boundary with no projections over Council's footpath.

Reason: To ensure the proposed development is contained wholly within the property boundary.

73. Lighting details of the communal car parking areas, the central driveway and the entrances to the industrial building being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

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

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

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

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

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

76. The person acting on this consent shall pay to Council Section 138 (Roads Act) inspection fees in the amount of \$218.70 (GST inclusive) before the issue of a Construction Certificate to ensure the proper completion of the public domain civil works resulting from this development.

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

77. Payment of a Bond, in the sum of \$20,000.00 for the proper performance of Road and drainage works before the issue of the Construction Certificate. The security may be provided in one of the following methods:-
- i) in full in the form of a cash bond; or
 - ii) by provision of a Bank Guarantee by an Australian Bank in the following terms:
 - a) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing.
 - b) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent;
 - c) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Reason: To ensure all road and drainage works are completed within a reasonable time and to a satisfactory standard.

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

- a) Details of all ramp grades and transitions; and
- b) Details of all signage and line marking proposed within the carpark and at the driveway accesses.

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

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

79. The stormwater drainage concept plans DA4.01 (Rev A), DA4.02 (Rev C), DA4.03 (Rev C) DA4.04 (Rev B), DA4.05 (Rev A), DA4.11 (Rev A), DA4.12 (Rev A) and DA4.13 (Rev A) and the proposed water quality treatment measures are generally acceptable subject to the following amendments/additional details being submitted to and approved by Council before the issue of a Construction Certificate;

- i. Detailed construction plans of all stormwater treatment measures as detailed in the Northrop Letter dated 14/7/15 and the submitted MUSIC file-141204-74 Edinburgh Road, Marrickville.sqz;
- ii. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken;
- iii. Detailed design and calculations of the proposed On-Site Detention systems including the submission of DRAINS files;
- iv. Amendments to plan DA4.04 (Rev B) to reflect changes in the architectural plan DA01 (Rev E). The amendments shall include detailed levels at the southern western corner of the site to ensure the existing overland flow path is maintained; and
- i. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system.

Reason: To provide for assessment of the proposed stormwater drainage.

80. As identified in the Flood Impact Study by Hydro Storm Consulting dated 23/3/15 the site is subject to flooding during a 1 in 100 year storm event. The Flood Planning Level for proposed Lot 2 is RL4.29m AHD. The following flood protection measures shall be undertaken as follows:

- i. The minimum internal floor level shall be set at or above the Flood Planning Level for the respective Lot;
- ii. All structures below the Flood Planning Level shall be constructed from flood compatible materials;
- iii. All electrical equipment, wiring or any other services and connections shall be waterproofed or installed above The Flood Planning Level;
- iv. The applicant shall demonstrate that the new additions will be able to withstand the forces of flood water and debris during a 1 in 100 year flood event; and
- v. The storage of toxic or potential polluting goods, materials or products, which maybe hazardous or pollute waters during property inundation, shall be stored above The Flood Planning Level.

Detailed plans and specification of the above requirements shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To protect the site and occupants from rising flood waters during a 1 in 100 year storm event.

81. All footings adjacent to stormwater pipes and or channels shall be designed so that no surcharge loads are placed on the pipes and or channels. Plans, and supportive documents, detailing the proposed foundations adjacent to the stormwater drainage systems, shall be submitted to and accepted by Council before the issue of a Construction Certificate.

Reason: To protect Council's drainage system.

SITE WORKS

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

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

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

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

84. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection (d) can only be carried out by the PCA. The critical stage inspections are:

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

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

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

85. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires

Council approval and shall comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'. Enquiries are to be made with Council's Infrastructure Services Division.

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

86. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and
 - c) give the owners of the adjoining land 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.

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

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

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

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

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

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

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

89. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2003 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To provide for adequate site drainage.

90. Trees to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with WorkCover NSW Code of Practice: Amenity Tree Industry 1998.

Reason: To ensure trees are removed in a safe and environmentally responsible manner.

91. Trees to be pruned shall be pruned by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in accordance with a pruning specification prepared by the project arborist and with the Australian Standard *Pruning of amenity trees* AS 4373—2007.

Reason: To ensure that only necessary pruning is undertaken and that pruning is performed in accordance with current best practice.

92. The project arborist shall inspect the trees, the Tree Protection Zones (TPZ) and other tree protection measures at least monthly for the duration of the project and shall certify in writing to the Principal Certifying Authority that the tree protection requirements are being complied with and that the trees being retained have not been negatively impacted.

Reason: To ensure that trees are effectively protected and managed so that their stability and ongoing viability is not compromised.

93. Following the completion of construction but prior to the issue of the occupation certificate, advanced trees shall be planted in accordance with the following criteria.

- a) The new trees shall be established in accordance with the submitted landscape plan.
- b) The species of trees shall be as detailed in the submitted landscape plan.
- c) The planting stock size shall be as detailed in the submitted landscape plan.
- d) The planting stock shall comply with Australian Standard *Tree stock for landscape use* AS 2303—2015.
- e) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3 in accordance with the landscape detail. Staking trees should be temporary.
- f) The project landscape architect shall supervise the preparation for and establishment of the trees being planted in structural soil modules under permeable paving in the car park.
- g) The project landscape architect shall determine which trees require tree guards and the style of tree guard to be installed.

Reason: To compensate for removed trees and to contribute to local amenity and achieving sustainable urban forest canopy, and to ensure that good quality trees are properly planted.

94. Each new tree shall be maintained in a healthy and vigorous condition for a period of 5 years from establishment. If any tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

Reason: To ensure that the urban forest canopy on the site is sustained and that canopy is not lost due to lack of adequate tree maintenance.

95. Any tree retained and protected in accordance with this consent and these conditions that dies within 5 years from the completion of works shall be replaced with a new advanced tree of a species and in a location approved by council.

Reason: To ensure that the urban forest canopy on the site is sustained and that canopy is not lost due to construction related impacts.

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

Reason: To provide for adequate site drainage.

97. The applicant shall, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the applicant fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the

maintenance security and Council may recover any costs in excess of the security from the applicant.

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

98. The existing Australia Post box located on the Edinburgh Road frontage of the site shall be relocated in consultation with and approval of Australia Post.

Reason: To ensure that the Australia Post box is relocated in consultation with Australia Post.

99. The existing SSM in the location of the existing vehicular crossing on Edinburgh Road shall be relocated and connected into the integrated Survey Grid Network in accordance with the requirements of the Surveying Act 2002 and the Surveyors Regulation 2001. Any relocation of the State Survey Mark (SSM) shall be undertaken by a registered surveyor.

Reason: To ensure the SSM is relocated correctly.

100. The person acting on this consent for Stage 1 of the development and the RMS shall consult with affected residents with regard to the proposed extension by 55m of the “No Parking” zone on Edinburgh Road (approaching Victoria Road westbound) during the weekday afternoon peak periods so as to alleviate delays and congestion on Edinburgh Road approaching the Victoria Road intersection in the following manner;

- (i) The developer’s Traffic Consultant is to verify (through intersection modelling) the extent of No Parking required along Edinburgh Road on approach to the traffic signals at Victoria Road;
- (ii) The developer’s Traffic Consultant is to undertake community engagement with affected residents on Edinburgh Road between Victoria Road and Fitzroy Street (southern side) regarding the “proposal to implement afternoon peak hour ‘No Parking’ restrictions extending east 55m from the existing “No Stopping” zone on the approach to the traffic signals on Edinburgh Road at Victoria Road;
- (iii) The Traffic Consultant is to liaise with Council Officers to develop a consultation letter for community engagement prior to the letter being sent out to residents with the results of community engagement being sent directly to Council.
- (iv) The developer’s Traffic Consultant is to prepare a detailed submission on the proposal including background material, modelling and results of the community engagement process for consideration by Councils pedestrian, Cyclists and Traffic Calming Advisory Committee.
- (v) The developer is to implement the recommendation approved by Council at its Infrastructure Planning and Environmental Services Committee before occupation certificate is issued.

Reason: To comply with the requirements of RMS.

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

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

Reason: To conserve water.

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

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

Reason: To conserve water.

103. The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of a Subdivision Certificate.
- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
 - b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
- Reason: To ensure compliance with Sydney Water requirements.
104. The Section 94a Levy must be paid before the issue of a Construction Certificate or a Torrens Title Subdivision Certificate (whichever occurs first).
- Reason: To ensure that the approved development makes a contribution towards the provision, extension or augmentation of public amenities and public services in the area.
105. The submission of a final survey plan and 5 copies for the subdivision.
- Reason: To comply with Council's requirements.
106. The payment of the required fee, under Council's adopted fees and charges, for the approval of the final plan under the terms of Section 109J of the Environmental Planning and Assessment Act.
- Reason: To comply with the requirements of that Act.
107. All instruments under Section 88B of the Conveyancy Act used to create positive covenants, easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.
- Reason: To ensure Council's interests are protected.
108. With the regard to the overland flow paths through the site, "restrictions as to user" and Positive Covenants in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code must be placed on the Title in favour of Council before the issue of an Subdivision Certificate.
- Reason: To ensure that the integrity of the OSD system is maintained and to comply with Marrickville Council Stormwater and On Site Detention Code.
109. An easement for drainage 2.5 metres wide in favour of Marrickville Council, being created over the full length of the nominal centreline of any Council controlled drainage system within the site of the proposed development, at no cost to Council and before the issue of the Occupation Certificate.
- Reason: To provide for and protect the rights of Council to drain through the site of the proposed development.
110. All instruments under Section 88B or 88E of the Conveyancy Act used to create positive covenants, easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.
- Reason: To ensure Council's interests are protected.
111. Drainage easements in favour of the parcels of land to be drained must be created over the full length of all existing and proposed inter-allotment drainage systems and overland flow paths within the site of the proposed development before the issue of the Occupation Certificate.
- Reason: To provide for and protect the rights of adjacent upstream landholders to drain through the site of the proposed development.

112. The land required for the realignment of the boundaries resulting from the proposed road widening along the Edinburgh and Steel Road frontages shall be dedicated as public road before the issue of an Occupation Certificate at no cost to RMS or Council. This shall include the dedication of 15 metres of land as road within the site at the signals for maintenance purposes as required by the RMS and the dedication of all land required for the 3 metre cycle/pedestrian path.

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

BEFORE OCCUPATION OF THE BUILDING FOR STAGE 1 OF THE DEVELOPMENT (MASTERS STORE ON LOT 1)

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

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

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

114. Occupation of the building is not permitted until such time as:

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

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

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

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

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning

and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

116. Prior to the issue of the occupation certificate the project arborist shall certify in writing to the Principal Certifying Authority that the conditions relating to tree protection, tree removal, pruning and tree planting have been implemented and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure. The Principal Certifying Authority shall report breaches of the conditions to Marrickville Council.

Reason: To ensure that conditions that aim to sustain Marrickville urban forest canopy are complied with.

117. The subdivision of the land into two (2) lots being registered at the Land Titles Office before the issue of an Occupation Certificate.

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

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

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

118. In order to provide satisfactory vehicular and pedestrian access adjacent to the site, the following road and footpath works shall be undertaken in accordance with Council's standard plans and specifications (AUS-SPEC#1-"Development Specifications") and RMS's requirements for both Lots 1 and 2. All Works shall be at no cost to Council or the RMS and shall be constructed before the issue of the Occupation Certificate. The works shall include the following:

- i. Provision of a new road pavement, kerb & gutter for the proposed road widening in Edinburgh Road to allow for right turn bays into Smidmore Street and the subject site.
- ii. Provision of an off road pedestrian/cycle path (minimum width 3m) along the full frontage of the site along Edinburgh Road and Sydney Steel Road inclusive of kerb and gutter and all necessary stormwater adjustments;
- iii. Relocation and/or augmentation of existing stormwater drainage in both Edinburgh Road and Sydney Steel Road to suit the new road/kerb alignments. The inlet capacity of the existing system must be maintained;
- iv. All footpaths to be reconstructed shall be to Councils Standard Plan "F3" with a 2.5% positive cross fall from the existing kerb (assuming a 150mm high kerb) to the site boundary;
- v. The construction of industrial duty concrete vehicular crossings at the proposed vehicular access locations;
- vi. The removal of all redundant vehicular crossings to the site of the proposed development and replacement with kerb, gutter and footpath paving;
- vii. The repair and/or construction of any existing damaged or otherwise defective kerb, gutter, footpath and road pavement adjacent to the site of the development;
- viii. All adjustments to public utilities including street lighting required by these works;

- ix. The existing power poles in the widened section of Edinburgh Road shall be removed and replaced on the new alignment with new standard steel light poles with all power placed underground; and
- x. Details of all line marking and regulatory signposting associated with the proposed development (including for the pedestrian/cycle path).

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

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

119. All works required to be carried out in connection with road widening, traffic signals, lighting, drainage works, vehicular crossings, alterations to kerb and guttering, footpaths/cycle paths and roads resulting from the development shall be completed before the issue of the Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

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

120. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

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

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

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

122. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.

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

123. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.

124. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard plans and specifications. The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications before the issue of the Occupation Certificate. In addition, full works-as-executed plans in PDF or CAD

format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council upon completion of the works.

Reason: To ensure that works are carried out to a proper standard.

125. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and stormwater quality treatment measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

Reason: To ensure drainage works are constructed in accordance with approved plans.

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

- a) The proprietor of the property shall be responsible for maintaining the stormwater treatment facility as outlined in the approved WSUD Strategy;
- b) The Proprietor shall have the stormwater quality treatment facilities inspected annually by a competent person and must provide the WSUD maintenance plan approved under this Consent to competent person to record the annual inspections.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all elements of the stormwater quality treatment facilities to ensure that the water quality targets provided in the design of the system are achieved; and recover the costs of any such works from the proprietor.

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

127. With the regard to the On Site Detention System (OSD), a “restrictions as to user” and Positive Covenants in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code must be placed on the Title in favour of Council before the issue of an Occupation Certificate.

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

128. The existing overhead power cables along the Edinburgh Road and Sydney Steel Road frontages of the site must be relocated underground with appropriate street lighting and new steel poles being installed to suit the new road alignment at no cost to Council and before the issue of an Occupation Certificate. The street lighting shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid. Plans shall be submitted to and approved by Council before submission to Ausgrid for implementation.

Reason: To ensure appropriate lighting is provided to create a safe environment and to protect the amenity of the surrounding neighbourhood from the emission of light.

129. A Flood Emergency Response Plan for the site in accordance with Part 2.22 of Marrickville Development Control Plan 2011 – Flood Management must be submitted to Council’s satisfaction before the issue of a Construction Certificate.

Reason: To protect the occupants of the site during extreme flood events.

130. Prior to issue of the Occupation Certificate the applicant shall provide security, in a manner satisfactory to Council, for the proper maintenance of the road/drainage works in an amount of \$21,000.00 for a period of twelve (12) months from the date of completion of the road/drainage works as surety for the proper maintenance of the road drainage works.

Reason: To provide security for the maintenance of road and drainage works for a 12 month maintenance period.

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

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

BEFORE OCCUPATION OF THE BUILDING FOR STAGE 2 OF THE DEVELOPMENT (INDUSTRIAL UNITS ON LOT 2)

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

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

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

133. Occupation of the building is not permitted until such time as:

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

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

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

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

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

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

135. Prior to the issue of the occupation certificate the project arborist shall certify in writing to the Principal Certifying Authority that the conditions relating to tree protection, tree removal, pruning and tree planting have been implemented and that the protected trees have not been damaged or, if the recommendations have not been complied with, detail the extent and nature of the departure. The Principal Certifying Authority shall report breaches of the conditions to Marrickville Council.

Reason: To ensure that conditions that aim to sustain Marrickville urban forest canopy are complied with.

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

- i. Provision of an off road pedestrian/cycle path (minimum width 3m) along the full frontage of the site along Edinburgh Road and Sydney Steel Road inclusive of kerb and gutter and all necessary stormwater adjustments;
- ii. Relocation and/or augmentation of existing stormwater drainage in both Edinburgh Road and Sydney Steel Road to suit the new road/kerb alignments. The inlet capacity of the existing system must be maintained;
- iii. All footpaths to be reconstructed shall be to Councils Standard Plan "F3" with a 2.5% positive cross fall from the existing kerb (assuming a 150mm high kerb) to the site boundary;
- iv. The construction of industrial duty concrete vehicular crossings at the proposed vehicular access locations;
- v. The removal of all redundant vehicular crossings to the site of the proposed development and replacement with kerb, gutter and footpath paving;
- vi. The repair and/or construction of any existing damaged or otherwise defective kerb, gutter, footpath and road pavement adjacent to the site of the development;
- vii. All adjustments to public utilities including street lighting required by these works; and
- viii. Details of all line marking and regulatory signposting associated with the proposed development (including for the pedestrian/cycle path).

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

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

137. All works required to be carried out in connection with road widening, traffic signals, lighting, drainage works, vehicular crossings, alterations to kerb and guttering, footpaths/cycle paths and roads resulting from the development shall be completed before the issue of the Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

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

138. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

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

139. No encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
- Reason: To ensure there is no encroachment onto Council's Road.
140. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.
- Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.
141. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.
- Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.
142. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard plans and specifications. The works shall be supervised and certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the approved plans and specifications before the issue of the Occupation Certificate. In addition, full works-as-executed plans in PDF or CAD format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council upon completion of the works.
- Reason: To ensure that works are carried out to a proper standard.
143. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and stormwater quality treatment measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
- Reason: To ensure drainage works are constructed in accordance with approved plans.
144. With the regard to the Stormwater Treatment Facilities a Positive Covenant shall be placed on the Title in favour of Council before issue of the Occupation Certificate. The Positive Covenant shall include the following:
- a) The proprietor of the property shall be responsible for maintaining the stormwater treatment facility as outlined in the approved WSUD Strategy;
 - b) The Proprietor shall have the stormwater quality treatment facilities inspected annually by a competent person and must provide the WSUD maintenance plan approved under this Consent to competent person to record the annual inspections.
 - c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all elements of the stormwater quality treatment facilities to ensure that the water quality targets provided in the design of the system are achieved; and recover the costs of any such works from the proprietor.

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

145. With the regard to the On Site Detention System (OSD), a “restrictions as to user” and Positive Covenants in accordance with supplement 7 of Marrickville Council Stormwater and On Site Detention Code must be placed on the Title in favour of Council before the issue of an Occupation Certificate.

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

146. The existing overhead power cables along the Edinburgh Road and Sydney Steel Road frontages of the site must be relocated underground with appropriate street lighting and new steel poles being installed to suit the new road alignment at no cost to Council and before the issue of an Occupation Certificate. The street lighting shall be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid. Plans shall be submitted to and approved by Council before submission to Ausgrid for implementation.

Reason: To ensure appropriate lighting is provided to create a safe environment and to protect the amenity of the surrounding neighbourhood from the emission of light.

147. A Flood Emergency Response Plan for the site in accordance with Part 2.22 of Marrickville Development Control Plan 2011 – Flood Management must be submitted to Council’s satisfaction before the issue of a Construction Certificate.

Reason: To protect the occupants of the site during extreme flood events.

148. Prior to issue of the Occupation Certificate the applicant shall provide security, in a manner satisfactory to Council, for the proper maintenance of the road/drainage works in an amount of \$2,000.00 for a period of twelve (12) months from the date of completion of the road/drainage works as surety for the proper maintenance of the road drainage works.

Reason: To provide security for the maintenance of road and drainage works for a 12 month maintenance period.

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

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

BEFORE THE RELEASE OF THE STRATA PLAN FOR THE DEVELOPMENT ON LOT 2

150. The strata subdivision of the development being carried out in accordance with survey plans to be submitted to and approved by Council. Such plans to be submitted together with the required fee for the approval of the final plan under the Strata Schemes (Freehold Development) Act 1973. Car spaces shall not be given separate strata lot numbers and any visitor parking spaces are to be included in common property.

Reason: To facilitate the subdivision of the land and to confirm the terms of Council’s approval.

151. The submission of a final survey plan and four (4) copies for the proposed Strata subdivision.

Reason: To comply with Council’s requirements.

152. The payment of the required fee, under Council’s adopted fees and charges, for the approval of the final plan under the terms of the Strata Schemes (Freehold Development) Act 1973.

Reason: To comply with the requirements under the Environmental Planning and Assessment Act and the Strata Schemes (Freehold Development) Act 1973.

153. Compliance with the conditions of related to Stage 2 of this Determination with the development being completed in accordance with the development consent to Council's satisfaction before the release of the Strata Plan.

Reason: To ensure compliance with the conditions of development consent for the erection of the building.

ADVISORY NOTES

- A complete Building Code of Australia assessment of the application has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The road, vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor **must** complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

• Useful Contacts

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

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

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

Landcom  9841 8660
To purchase copies of Volume One of "Soils and Construction"

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

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

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

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

Sydney Water

☎ 13 20 92
www.sydneywater.com.au

Waste Service - SITA
Environmental Solutions

☎ 1300 651 116
www.wasteservice.nsw.gov.au

Water Efficiency Labelling and
Standards (WELS)

www.waterrating.gov.au

WorkCover Authority of NSW

☎ 13 10 50
www.workcover.nsw.gov.au
Enquiries relating to work safety and asbestos
removal and disposal.

- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the JRPP's determination of the application.
- C. THAT** Road and Maritime Services (RMS) be advised of the JRPP's Determination of the application.