

File Ref: DA201500246

Synopsis

This report relates to an application to demolish the existing improvements, and construct a U-shaped 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking for 81 cars with associated landscape works.

The development has a capital investment value (CIV) of \$22,627,420. 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.

Since lodgment, the application was amended to delete the top level and reduce the number of units from 66 to 64 units, with the rearrangement of units and a revised unit mix.

In terms of key compliances, the building generally complies with the building height development standard (except for roof top structures) in Marrickville Local Environmental Plan 2011 (MLEP 2011) although exceeds the number of storeys control in the Marrickville Development Control Plan 2011 (MDCP 2011) by one storey. The floor space ratio (FSR) development standard applying to the site under MLEP 2011 is 1.75:1 and the proposal has an FSR of 1.95:1 (inclusive of additional basement car parking spaces). The development amounts to a 5% departure from the height development standard and 11.6% from the FSR development standard.

The site is part of a Masterplan area in MDCP 2011 (MA11.1) and the adjoining site at 6 - 26 Grove Street has been approved with a height up to 8 storeys and a FSR of 2:1 (where the MLEP 2011 FSR standard is a slightly lower at 1.7:1).

42 objections were submitted in response to the notification of the proposal, and the most common concerns raised were cumulative impacts with other development in the area/precinct, the height relative to surrounding one-storey dwelling houses and traffic/parking impacts. It is true that the surrounding scale of existing dwelling houses (excluding the adjoining Masterplan sites) is low, and mostly one storey in height and the proposal marks a significant change in scale to such surrounds. However, this was envisaged by the planning controls that included site specific masterplan for this site and adjacent lots occupied by redundant industrial buildings. The height (except for roof top structures) generally complies with the MLEP 2011 standard and is compatible with adjoining approved development. While the FSR does exceed the maximum in MLEP 2011, the scale is similar to that envisaged by the controls and adjoining development; the proposal is considered to be consistent with the objectives of the height and FSR development standards and the submitted Clause 4.6 submissions addressing the height and FSR departures are considered justified and well founded.

The design of the proposal is contemporary and high quality, and the amenity of the apartments is acceptable having regard to the provisions of State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65) and the associated former Residential Flat Design Code (RFDC). The proposal was also supported by Council's independent Architectural Excellence Panel (AEP). There are a number of benefits associated with the proposal including the provision of a substantial Greenway link adjoining the light rail corridor and improved surrounding landscape interface with Hill Street.

While there is a non-compliance with the MLEP 2011 FSR development standard (and less so for the height standard), on balance, the proposal is considered worthy of approval and is recommended for deferred commencement consent subject to terms and conditions relating to submission of a Remediation Action Plan.

PART A - PARTICULARS

Location: Southern side of the western termination of Hill Street, immediately east of the light rail corridor, approximately 60 metres west of the intersection of Hill Street and Grove Street, Dulwich Hill. The site forms part of the northern extremity of the Masterplan area (MA 11.1) within wider Hoskins Park Precinct in MDCP 2011. To the immediate south and east of the site is another Masterplan site undergoing construction (known as 6-26 Grove Street and 60-64 Constitution Road).



Image 1: Location Map

D/A No: 201500246

Application Date: 20 May 2015. Additional information submitted during October 2015, including changes to the proposed plans, January and February 2016.

Proposal: To demolish the existing improvements and construct a 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking with associated landscape works.

Estimated Cost: \$22,627,420

Applicant: Beraldo Design Pty Ltd

Zoning: R1 - General Residential

PART B - THE SITE AND ITS ENVIRONMENT

Improvements: A one storey masonry warehouse-style building(s) occupies the site, with a pitched metal roof and verandah structure to the east. The building is surrounded by concrete/bitumen at ground level, used for parking and vehicular manoeuvring. The site is generally devoid of trees and landscaping, except adjoining the north-eastern boundary, where a row of semi-mature conifer trees partially shield the building from view from Hill Street. A double-width concrete driveway services the site along the eastern boundary, for which there is a joint right-of-way with the adjoining

site to the east, while a second double driveway services the site at the corner of Hill Street, adjoining the dwellings to the north-east at No 1-3 Hill Street. Electricity and water infrastructure traverse the site.



Image 2-4: The Site

Current Use: Meat processing (Andrews Meat Industries)

Prior Determinations: Development Consent No. 1929, dated 4 May, 1977 to use the premises for the purpose of a meat boning and packing plant, including the installation of freezing rooms, refrigerator motors and compressors and a band saw, together with the wholesaling and retailing of meat.

Development Consent No. 13524, dated 8 February, 1991 to carry out alterations and additions to the existing meat boning and packing factory.

(This consent was never acted upon.)

Development Consent No. 17114, dated 10 June, 1997 to carry out alterations and additions to the building for the purposes of creating a larger cool room and freezer for the existing meat processing plant and to continue the use of the premises for the purposes of distribution of prepared meat and processing of meat related products together with the wholesaling and retailing of meat.

Determination No. 200500631, dated 20 April 2006, refused development consent to use existing unauthorised works carried out to a premises at 1A Hill Street, Dulwich Hill for the processing, packaging and wholesale distribution of meat products.

Environment:

Residential in nature. The site is part of a Masterplan site which is currently being developed, generally ranging from 4 to 8 storeys (surrounding the site to the east and south). That development is under construction/excavation, with approval for 249 dwellings across 4 buildings. Otherwise, the nature of the surrounding area and development along Hill Street is low scale residential, with occasional interspersed flat buildings and light industrial uses in the surrounding area. The light rail corridor adjoins the site to the west. The zoning and planning controls applying to the site and surrounds have resulted in a transition in the nature of the built environment from light industrial/warehousing interspersed with residential uses to predominantly residential.

PART C - REQUIREMENTS

1 Zoning

Is the proposal permissible under zoning provisions?

Yes

2 Development Standards (Statutory Requirements):

Type	Required	Proposed
Height of Buildings (max)	29 metres	30.6 metres
Floor Space Ratio (max)	1.75:1	1.95:1

3 Departures from Development Control Plan:

Type	Required	Proposed
Parking	73 spaces	81 spaces
Site Coverage	30%	28%
Unit Mix	5% Studio	2% studio (other types comply)
Building footprint/shape	Irregular	U-Shaped
Number of storeys	8	9

4 Community Consultation:

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

Submissions: 42 submissions (including 1 in support and 41 objections)

5 Other Requirements:

ANEF 2033 Affectation:	<20 ANEF
Marrickville Section 94/94A Contributions Plan 2014	\$1,142,684.98
State Environmental Planning Policy (State and Regional Development) 2011	
State Environmental Planning Policy No.55 – Remediation of Land	
State Environmental Planning Policy (Infrastructure) 2007	
State Environmental Planning Policy (BASIX) 2004	

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

PART D - ASSESSMENT

1. The Site and Surrounds

The site has an area of 2,883sqm and is generally flat, with a frontage of 37 metres to Hill Street and has an irregular hatchet shape, with a long axis adjoining the light rail corridor to the west. The site is located on the southern side of Hill Street, generally at a bend near the western termination of the street and currently contains single storey structures (accommodating a meat processing use) surrounded by hard paved areas for parking, storage and manoeuvring.

The surrounding area is undergoing transition, particularly associated with the light rail corridor and former industrial sites undergoing redevelopment to higher density residential. These sites are interspersed and accommodate a higher built form than surrounding lower scale predominantly residential housing, such as occurred at the Waratah Flour Mills site across the light rail corridor to the north-west of the site.

To the immediate north of the site at the bend of Hill Street are single storey dwellings known as Nos. 1-3 Hill Street (part of the Masterplan area MA11.1) while to the east are the rear of dwellings known as Nos. 2-4 Grove Street (also part of the Masterplan area although not part of the adjoining development consent/construction). Across Hill Street to the north and north-east are mostly single storey dwellings, with a two storey residential flat building. The scale and character of Hill Street is mostly one storey dwellings beyond the Masterplan site(s).



Image 5: Adjoining No. 3 Hill Street (No.1 behind)



Image 6: View east up Hill Street from outside the site



Image 7: Structures on the south side of Hill Street, east of the site (Nos. 2-4 Hill Street)



Image 8: Dwellings to the north-east across Hill Street



Image 9: View to the north from within the site to the units opposite on Hill Street (No. 14)

To the immediate south and east of the site is a development site known as 6-26 Grove Street and 60-64 Constitution Road Dulwich Hill. This is a “Masterplan” site (as for the subject site) which is undergoing development in accordance with approved Determination No. 2013000375, granted on 20 June 2014 by the JRPP.

The adjoining (and subject) sites are Masterplan sites within the broader “Hoskins Park Precinct” in MDCP 2011, as shown below (the subject site is shown by a red dot).

The MDCP 2011 extract also shows the adjoining two single storey dwellings to the north (Nos. 1 and 3 Hill Street) are also within the “Masterplan” site, forming part of “Site 3”.

The site is not within a Heritage Conservation Area and there are no heritage items or Heritage Conservation Areas within the immediate proximity or reasonable visual proximity to the site.

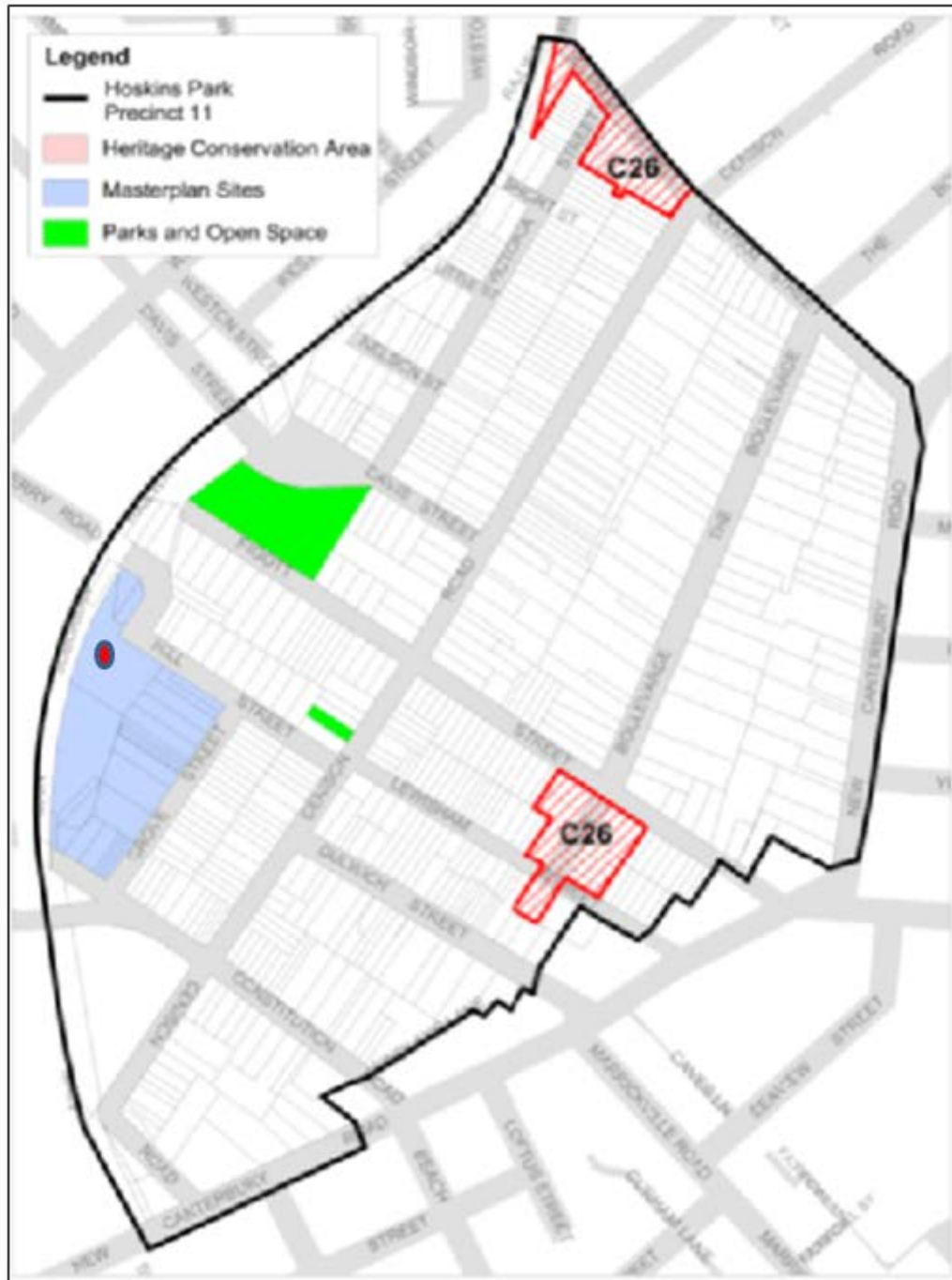


Image 10: Hoskins Park Precinct (MDCP 2011) and site

The development footprint of the adjoining approved development is shown below (together with an extract of the MDCP 2011 masterplan site planning provisions, equating to “Site 1”). While the diagrams are not exactly aligned by orientation, it can be seen that the adjoining approved development has a different site planning than in MDCP 2011, with the most proximate building to the south being oriented east-west rather than north-south (and also setback approximately 5.35 metres rather than 9 metres). This is elaborated upon later in this report.



Image 11: MDCP 2011 Masterplan (MA 11.1) footprint and adjoining approved development

To the immediate west of the site is the light rail line and the site is roughly midway between the Arlington (south) and Waratah Mills (north) light rail stations.

There are two parks within the surrounding area: Hoskins Park approximately 150 metres to the north-east of the site and Johnson Park to the west across the light Rail corridor.

To the north-east across the light rail corridor is the former Waratah Flour Mills residential development, shown in the photograph below.



Image 12: View west across light rail corridor from Hill Street to the former Flour Mills site development

2. The Proposal

Changes to the original proposal

The proposal as originally submitted included an additional storey (a 10 storey building), with a total of 66 units. The top level of the building was deleted through amendments to the proposal during assessment and some bulk redistributed to the lower levels resulting in some increase in the gross floor area (GFA) compared to the original proposal, partly from redistribution and partly from GFA assessment, although no changes were made to the overall building footprint. Some changes were made to the layout, balconies and unit mix. These changes were in response to issues raised during assessment regarding the height and other issues. Other changes included increasing the floor-floor heights to 3.1 metres to achieve 2.7 metres ceilings, increased 3 bedroom units to improve unit mix compliance, movement of disabled spaces to be more proximate to lifts, refinement of the garage levels to address flooding flow paths, changes to the bin store room, refinement of materials and building composition/elements in response to design comments from the AEP.

This assessment relates to the amended proposal.

The proposal seeks approval to demolish existing improvements and construct a 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking containing 81 cars and associated loading, storage and bicycle spaces with associated landscape works.

The proposal is to erect one building in a "U" shape around an east-facing central courtyard and above the basement parking. The parking access to the basement parking is proposed along the driveway to the south of the site (sharing access with the adjoining site) and the basement access is towards the southern end of the site.

The building is setback from the western boundary to provide a “green corridor” adjacent to the light rail corridor.

The following table summarises key aspects of the proposal:

Table 1: Key Development Statistics

Element	Permitted/Required	Proposed
Site Area	2,883m ²	
Gross Floor Area	5,045m ²	5,522.54m ²
Floor Space Ratio	1.75:1	1.91:1 (9.4%) 1.95:1 (including additional basement car parking spaces above the DCP requirements).
Height of Buildings	29 metres	30.6 metres (maximum to lift core – habitable levels comply)
Storeys (DCP)	8	9
Apartment mix (DCP)*		
• Studio	5 - 20% (3 – 13 apartments)	2% (1 apartment)
• 1 bedroom	10 - 40% (6 – 26 apartments)	20% (13 apartments)
• 2 bedroom	40 - 75% (26- 48 apartments)	67% (43 apartments)
• 3 bedroom	10 – 45% (6 – 29 apartments)	11% (7 apartments)
• Adaptable dwellings	13 apartments	13 apartments
Retail Floor Space	No min requirement	
Car parking spaces (DCP)		
• Standard	52 spaces + 5 visitors	59 spaces + 6 visitors
• Accessible	13 spaces + 3 visitors	13 spaces + 3 visitors
• Service bays	1 spaces	1 space in basement
Motorbikes	3 spaces	4 spaces
Bicycle spaces	32 resident; and 6 residential visitor	39 in basement
Landscaped area (DCP)	45% (1,297m ²)	49% (1,400m ²)

A copy of the photomontage, floor plans, elevations and section of the development submitted with the application are reproduced below:



Image 13: Photomontage

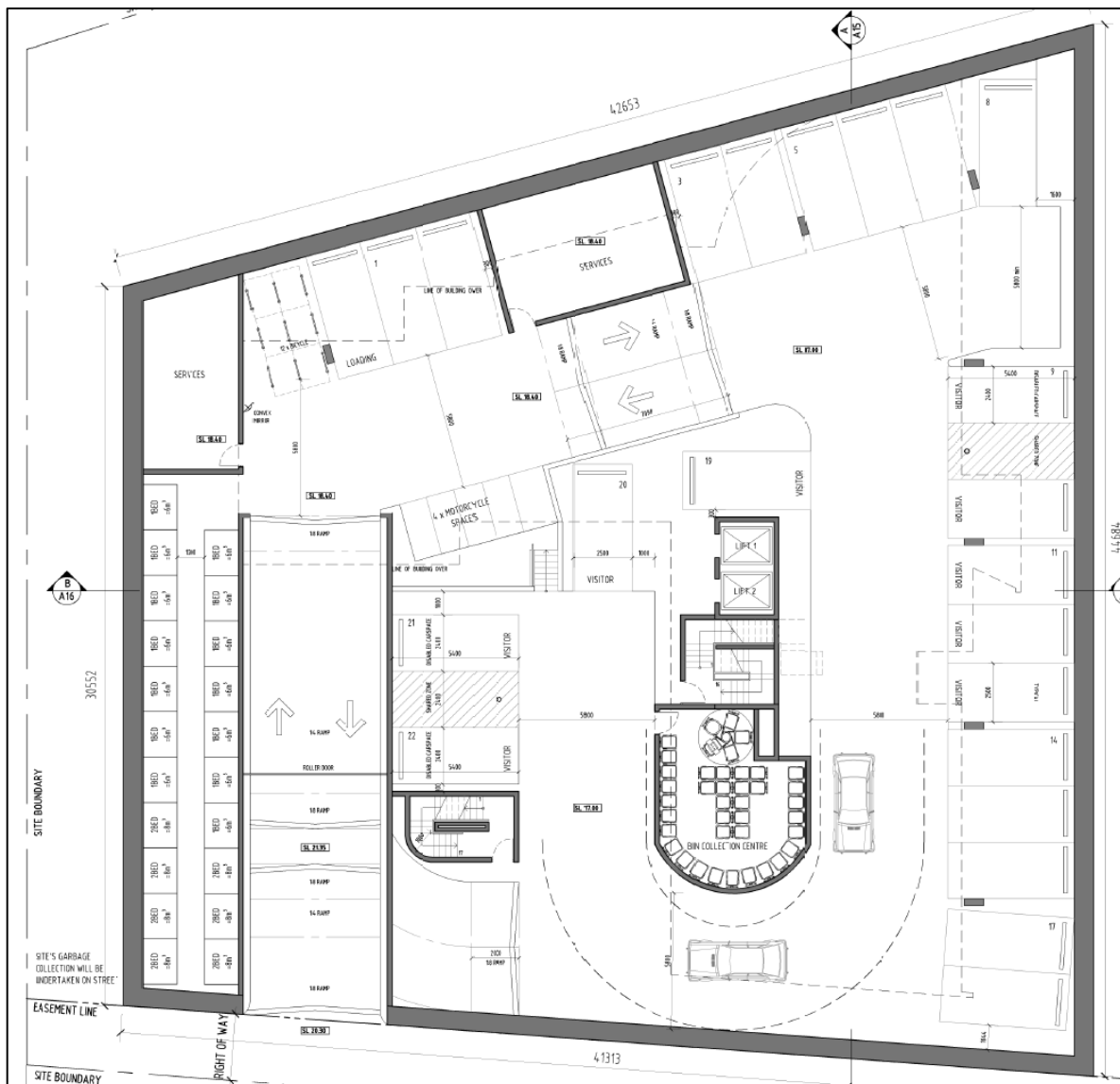


Image 14: Basement Plan 1

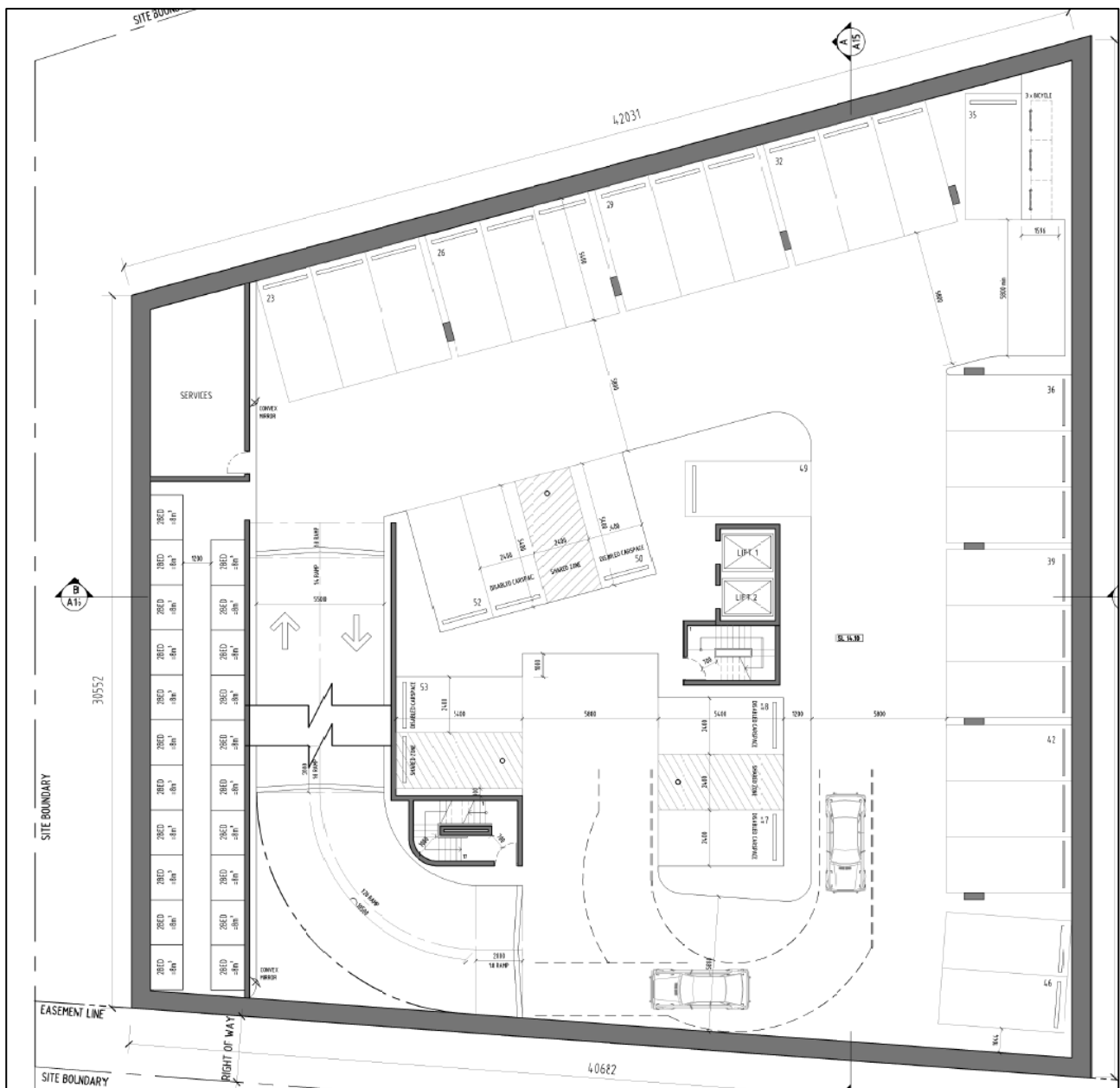


Image 15: Basement Plan 2

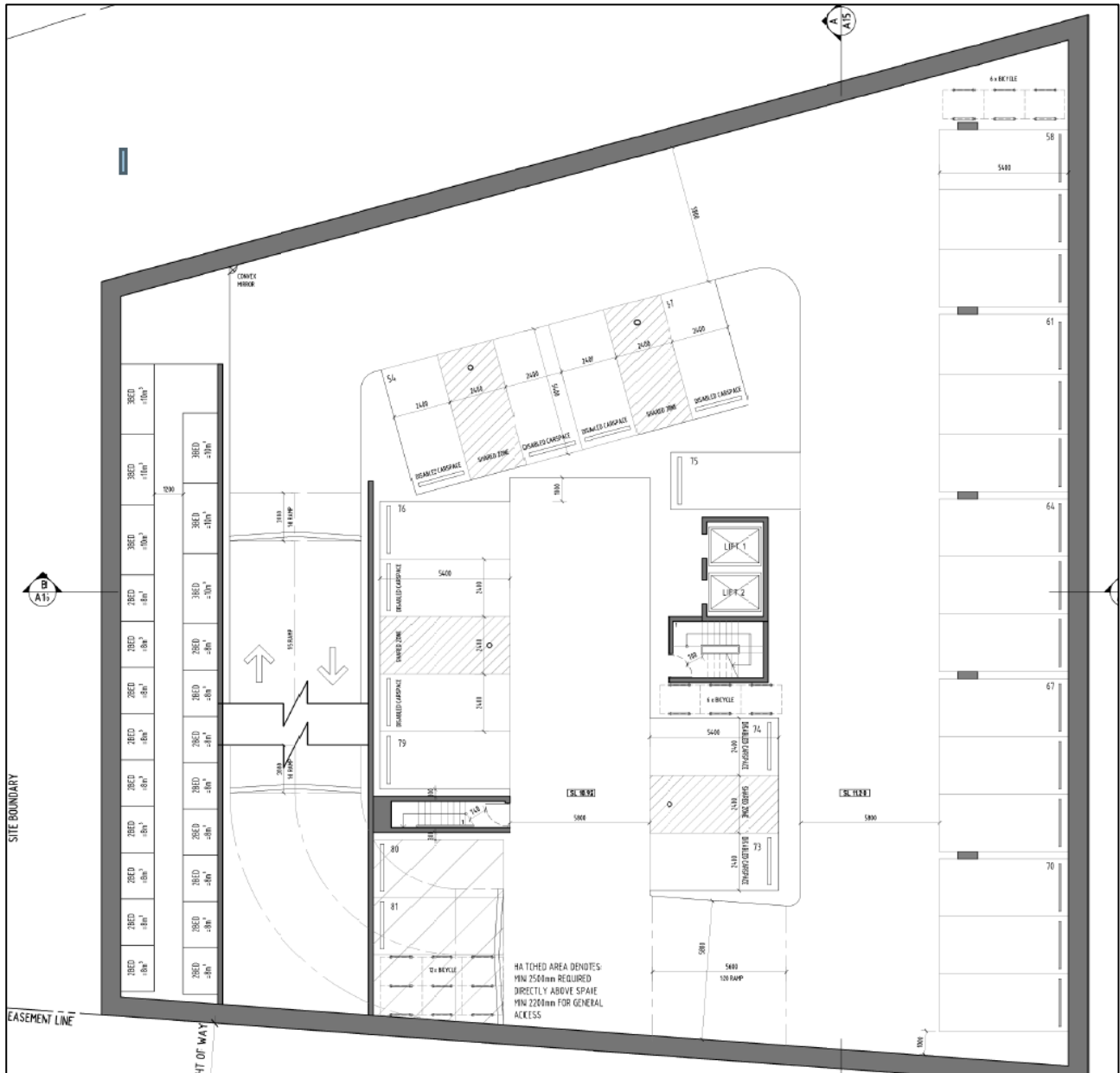


Image 16: Basement Plan 3



Image 17: Ground Floor Plan



Image 18: First Floor Plan

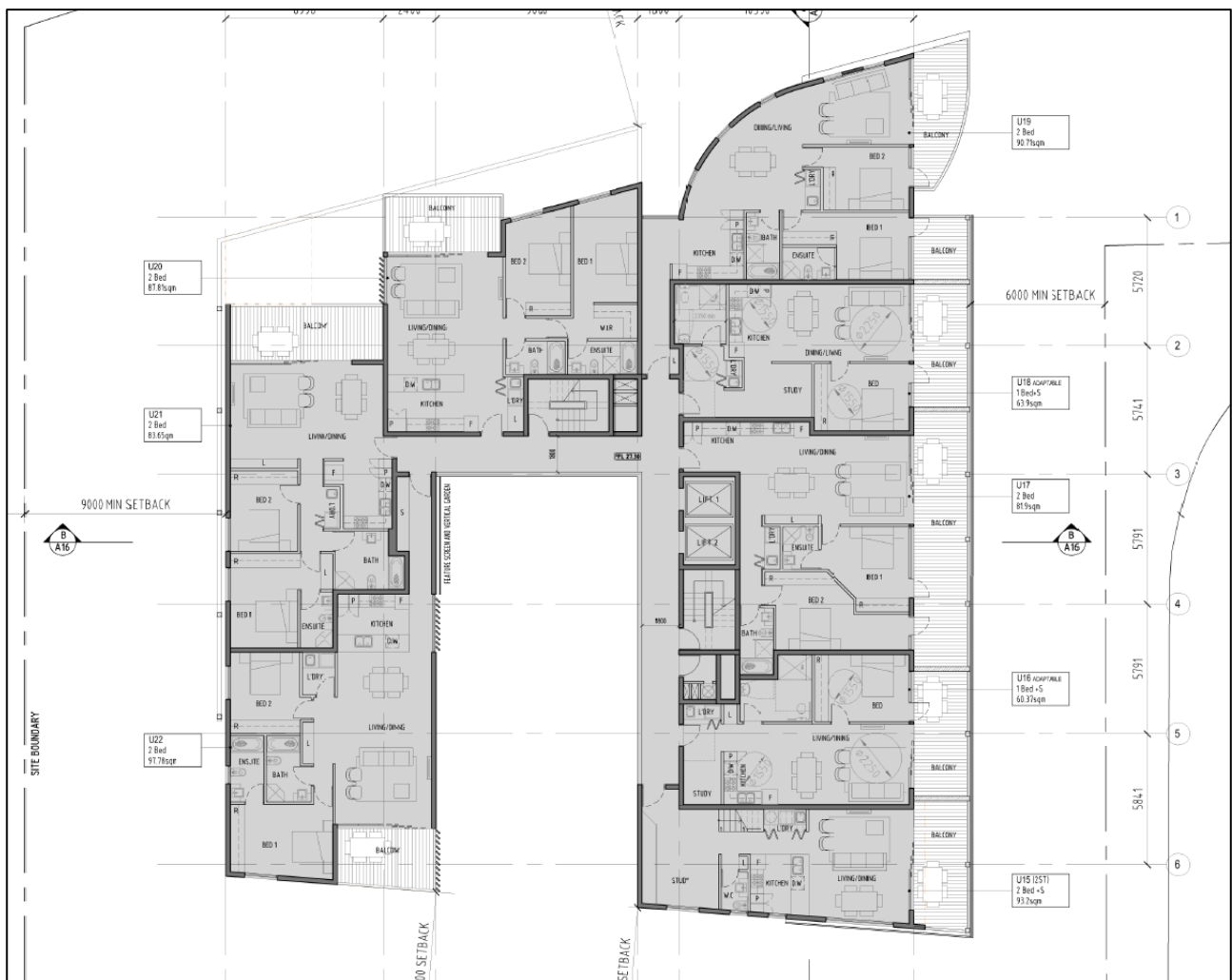


Image 19: Second Floor Plan



Image 20: Third Floor Plan

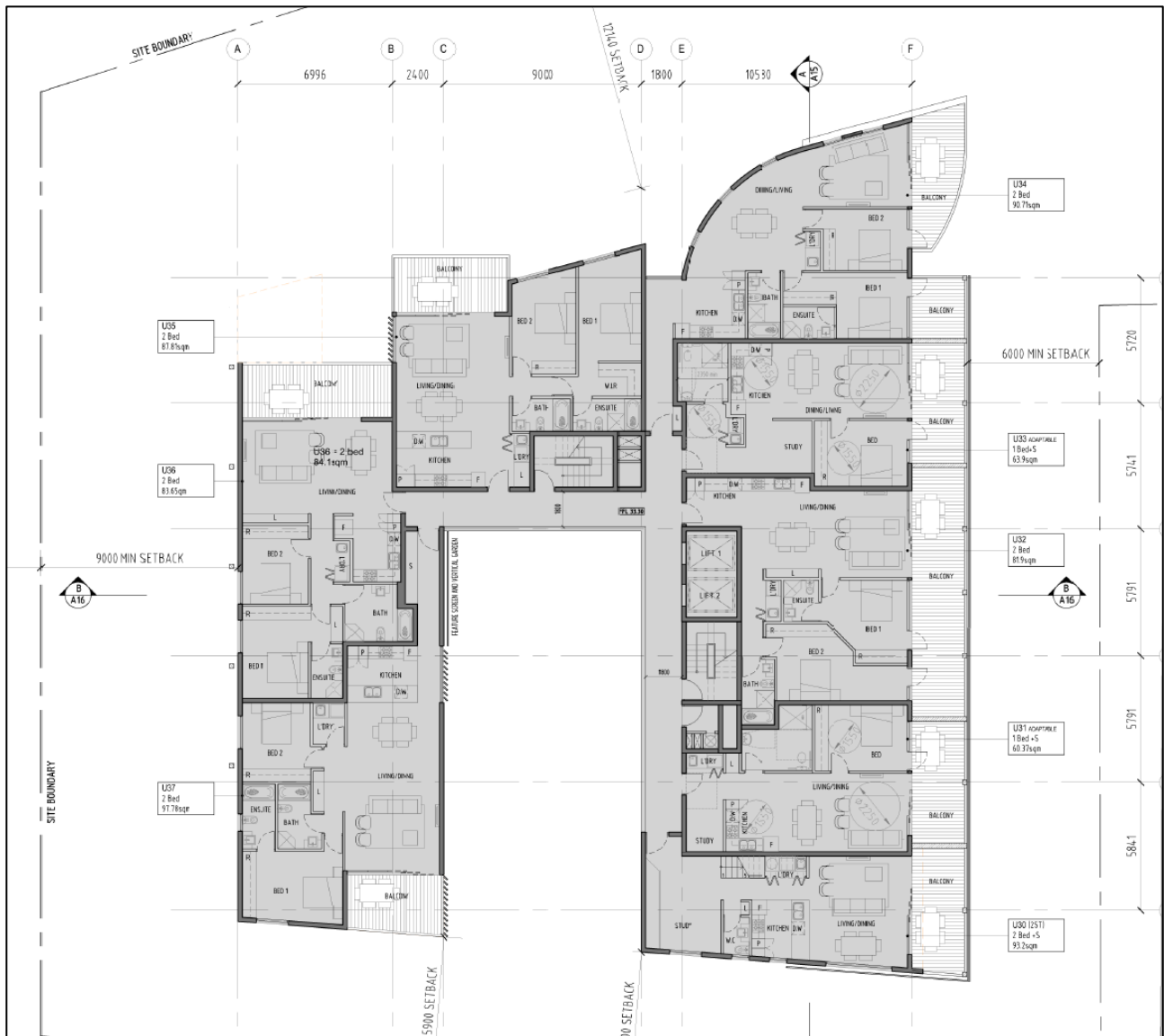


Image 21: Fourth Floor Plan



Image 22: Fifth floor plan





Image 24: Seventh Floor Plan

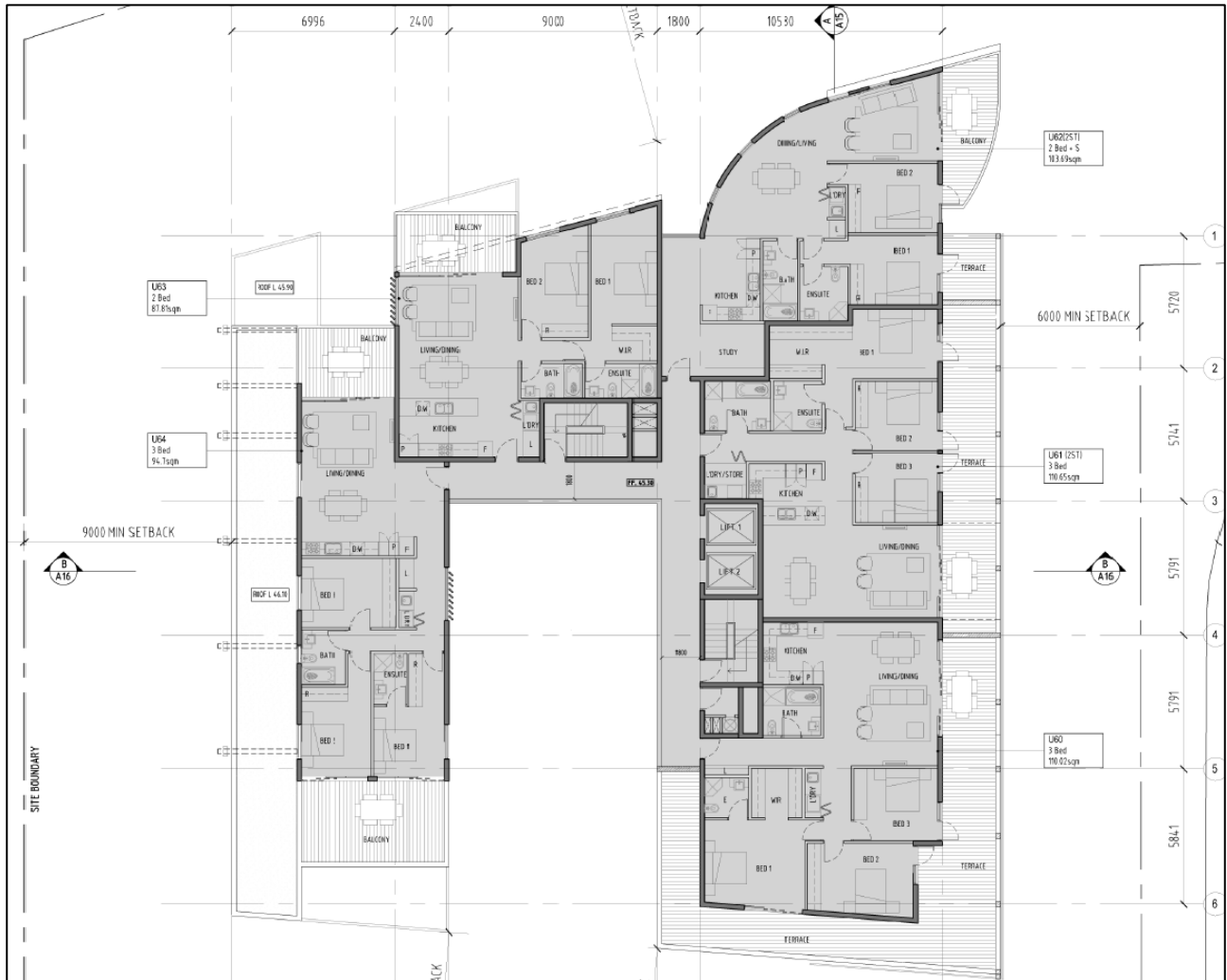


Image 25: Eighth floor plan

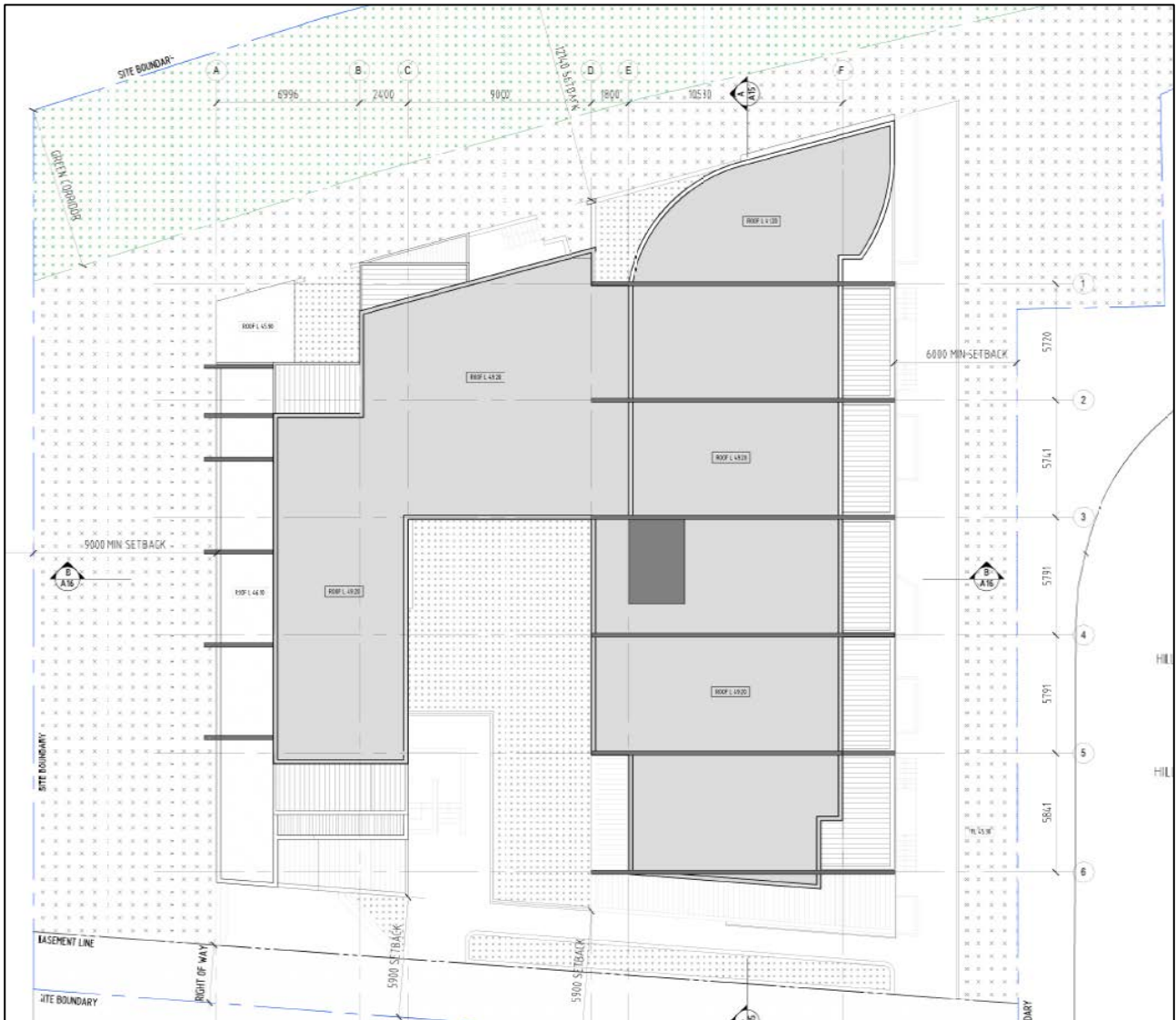


Image 26: Roof Plan

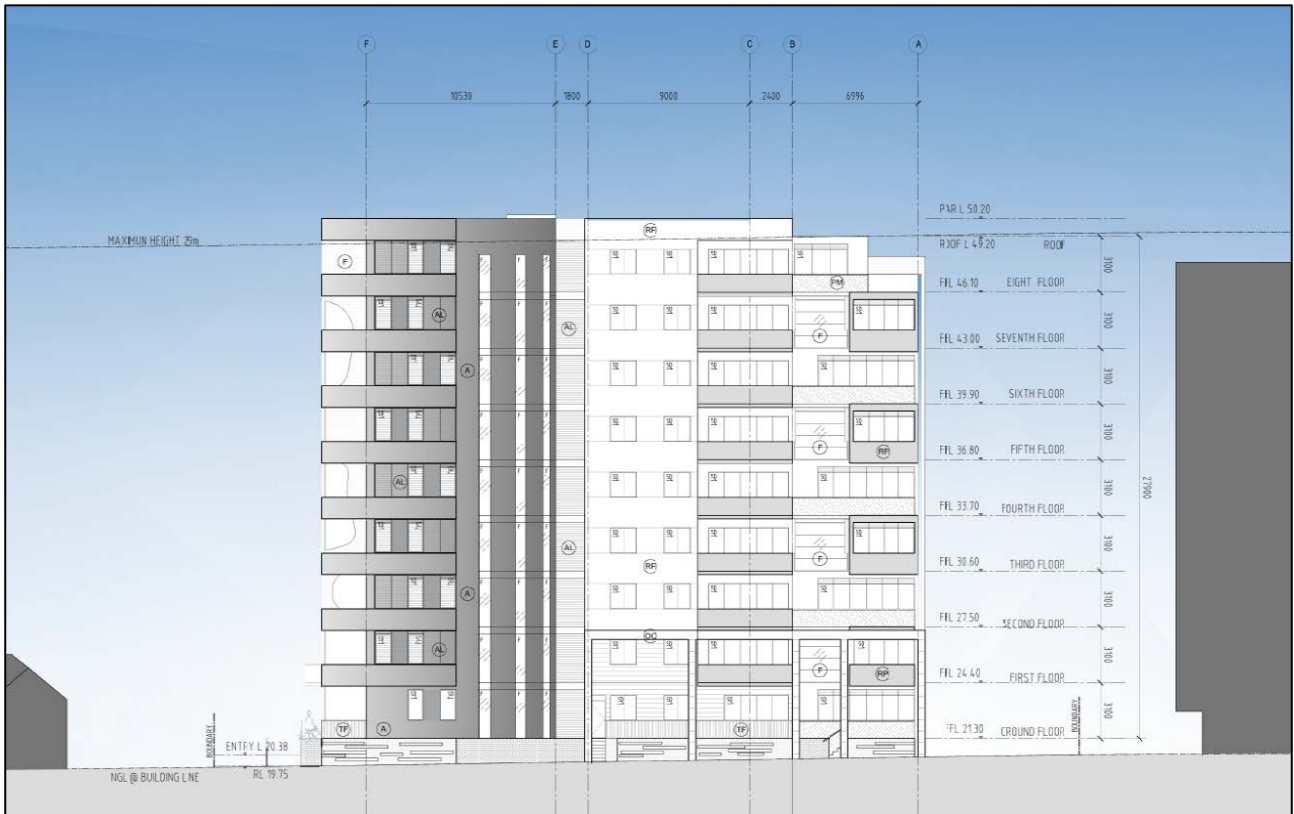


Image 27: North West Elevation

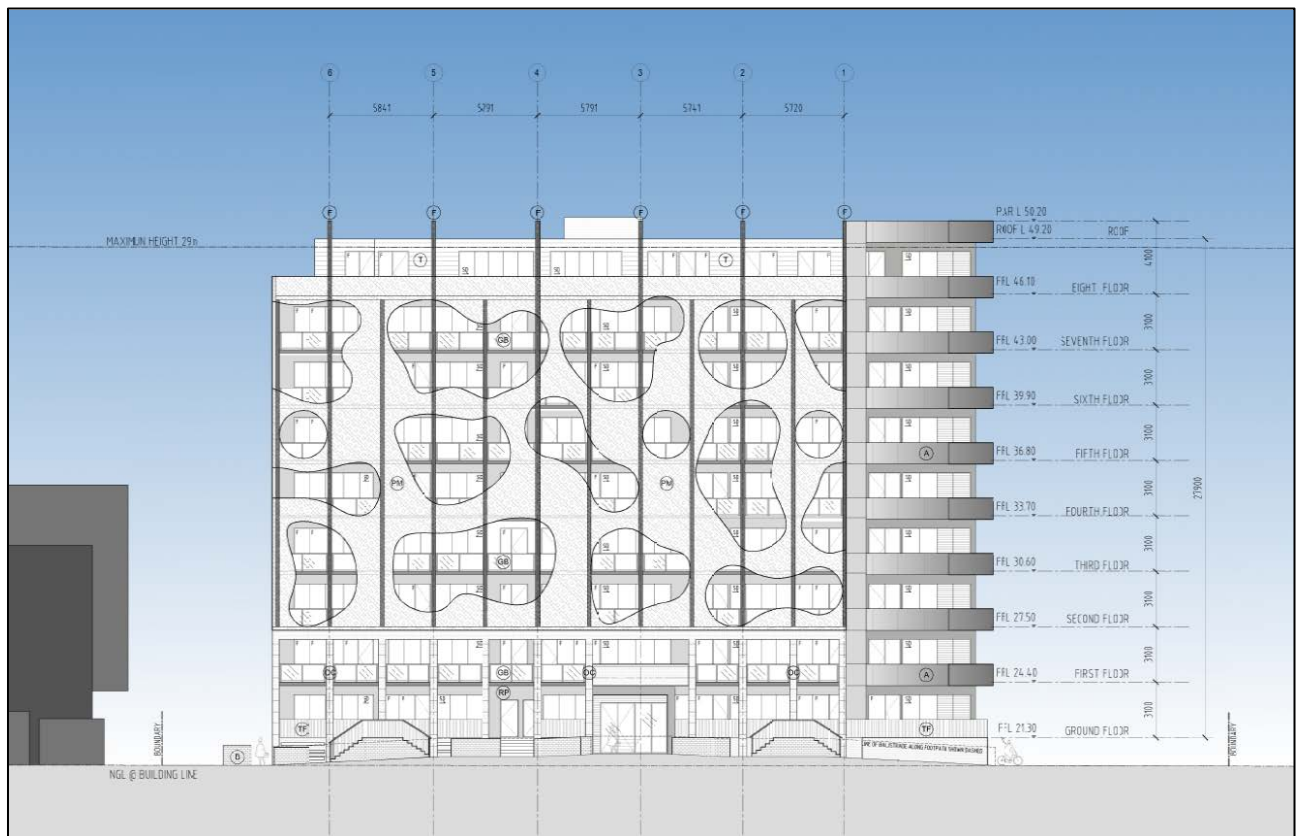


Image 28: North East Elevation

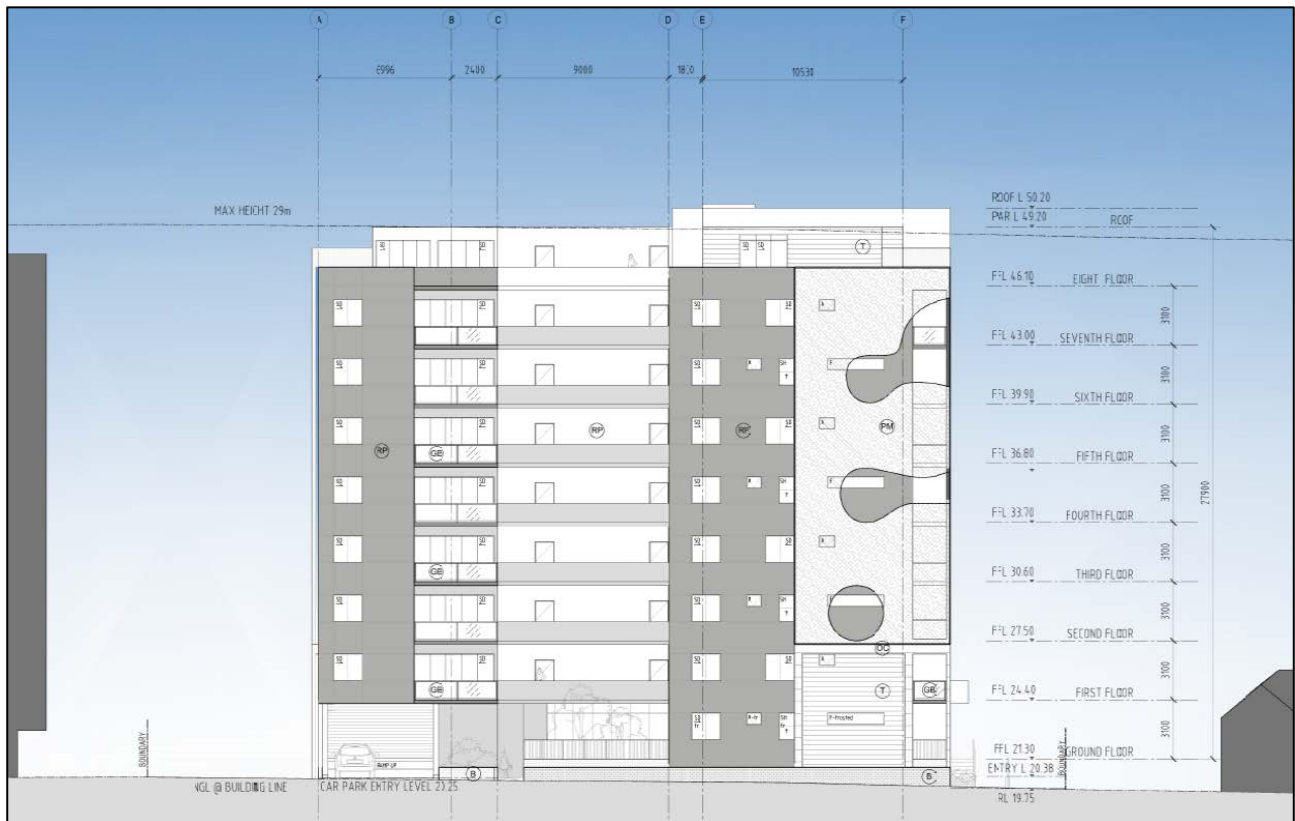


Image 29: South East Elevation



Image 30: South West Elevation

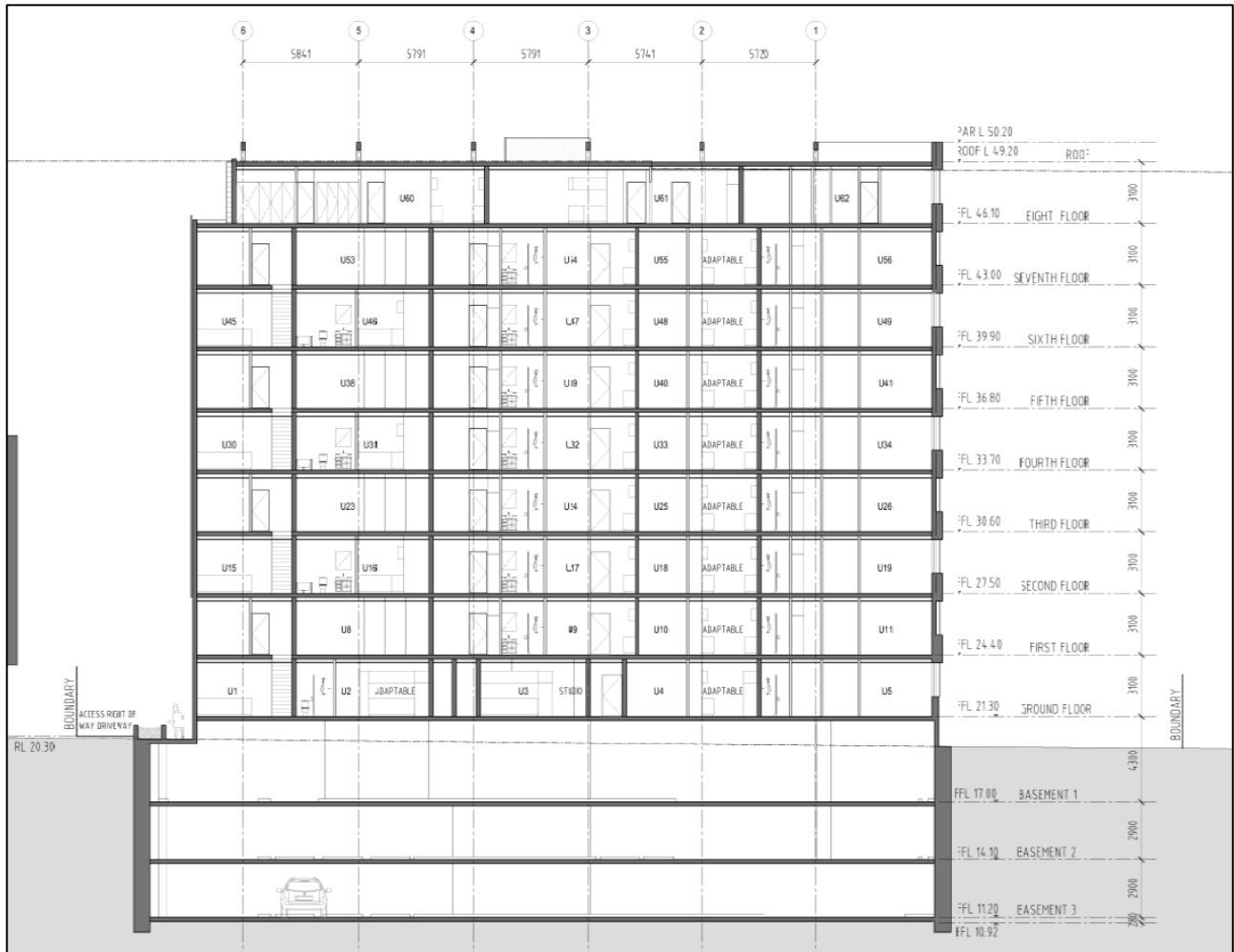


Image 31: Section A

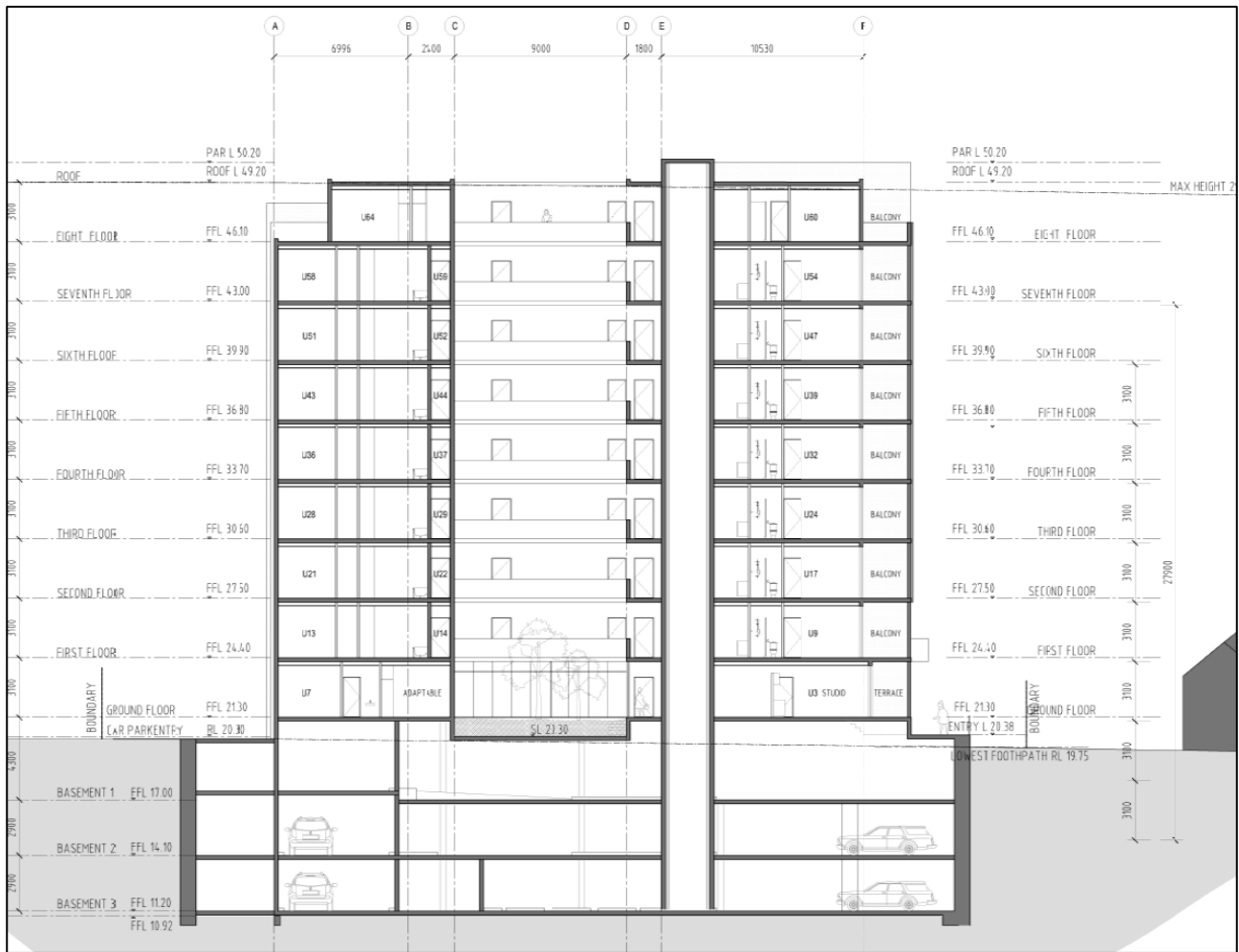


Image 32: Section B

The following section provides an assessment of the application against the relevant Acts and Regulations, statutory planning instruments, plans and policies.

3. Sydney Water Act 1994

The land contains a water supply pipe owned by Sydney Water and protected by easement.

Correspondence was received from Sydney Water during the assessment process advising that the required stormwater asset deviation proposal is able to be addressed via deferred commencement terms and conditions.

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

The development has a capital investment value of \$22,627,420.

Clause 3 in Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979) provides that general development with a capital investment value of more than \$20 million must be determined by the relevant Joint Regional Planning Panel, pursuant to the provisions of Section 23G (4) and Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011.

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 (MDCP 2011) provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The applicant has provided both a Stage 1 and more detailed Stage 2 Environmental Site Assessment. The latter was provided in response to a request from Council as the first generic report was for the wider site. The submitted report identified some “hot spots” (of PAH) although found low likelihood of widespread contamination (9 test bore holes were made, having regard to the size of the site and associated guidelines). Detailed ground water assessment was not undertaken, although preliminary investigation was undertaken due to likely intercept of groundwater by the basements and borehole results. This issue is considered able to be addressed by the recommended conditions.

The information submitted is detailed and sufficient to make a conclusion the site is able to made suitable for the proposed use, subject to appropriate conditions, as recommended. A deferred commencement condition is included in the recommendation for the submission of a RAP.

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

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

SEPP 65, as applying at the time of lodgement of the application, prescribes ten design quality principles to guide architects designing residential flat buildings and to assist councils in assessing such developments. The ten principles relate to key design issues including the context, scale, built form and building density, resource, energy and water efficiency, landscape design, amenity, safety/security, social impacts and aesthetics.

The SEPP also contains provisions for appointment of Design Review Panels (DRPs) by the Minister or Councils and the need to consider advice from such a Panel. Marrickville Council has an “Architectural Excellence Panel” (AEP) whose role includes providing independent advice on certain applications. While the AEP is not a formally constituted panel under the SEPP, the advice of the AEP has informed the assessment of the DA.

The AEP provided comments on the original proposal at Pre-DA stage (i.e. prior to amendments):

“The panellists discussed the Pre-DA proposal with Beraldo Design Architects. In the panellists’ views, the proposed DA is a well-thought architectural design. The ‘U’ shaped building is an appropriate built form solution for the site, making a trade-off that involves the addition of an extra 9-part-10 level in return for lesser building bulk; improved amenity to apartments, lobbies and corridors; and an increase in the size of the communal open space at ground level. The proposal is supported for approval provided that some minor amendments are made in accordance with the following recommendations:

Aesthetics

In general, the elevations have been carefully considered but some minor design refinements are required prior to DA approval, as follows:

1. **Recommendation 1:** *The northwest elevation (fronting the light rail) needs to be refined to improve architectural expression and appearance. In particular, the*

transition between the curved element and the several projections and recesses of the orthogonal shapes of the balconies and external walls looks a little clunky and aesthetically unresolved. Perhaps, a simpler orthogonal plane could provide a better transition between the curved element, the small indent and the orthogonal plane, achieving greater design cohesiveness and a more sophisticated built form. Also, the off-form concrete frame at ground and first floor levels appears to be an ad hoc element, of which the form and scale are disconnected from the other elements of the façade. This needs to be revisited. The flipped balconies and the proportion of solid to void are supported.

2. **Recommendation 2:** Photomontage of the northwest elevation should be provided.
3. **Recommendation 3:** The architectural expression of the northeast elevation (fronting Hill Street) is well-thought-out. The height of the strong 'body' of the building created by the perforated screen balances well against the corner tower element. But the façade elements of the two top levels should be improved to minimise the visual impact of the several steps in height. Perhaps, Level 9 and Level 10 could be more recessive and thereby not confuse the balance between the perforated screen and the tower element.
4. **Recommendation 4:** The proposed perforated metal mesh needs to be of high quality and lasting material to avoid rust and minimise maintenance. Thought should be given to its stiffness over large areas.

Pedestrian Access at Ground Level

5. **Recommendation 5:** The proposed secondary footpath parallel to the public footpath along Hill Street is unnecessary and invites privacy problems. It is more beneficial to have ground level apartments and the lobby directly accessible to the public footpath on Hill Street. Similarly, the ground level apartments facing the light rail line should also be accessible from an onsite footpath for the convenience of residents and to help activate the landscaped common area. Therefore, the ground floor plan and landscape concept plan should be amended to (1) delete the secondary footpath; (2) provide a direct pedestrian path between Hill Street and the main entry to the lobby area to improve pedestrian legibility and access; and (3) provide a direct pedestrian path, steps and small gate to access the terraces of each of the ground-floor units facing Hill Street and the light rail line. Front fences and gates should be no higher than 1.5m. A cross-section in 1:20 should be provided clearly illustrating the public/private interface between the ground floor apartments, the public footpath along Hill Street and the footpath fronting the light rail line, including specifications of fencing height and materials.

Waste Collection

1. **Recommendation 6:** The design solution for garbage bin collection is not well-thought-out and needs refinement.

Recommendations Summary

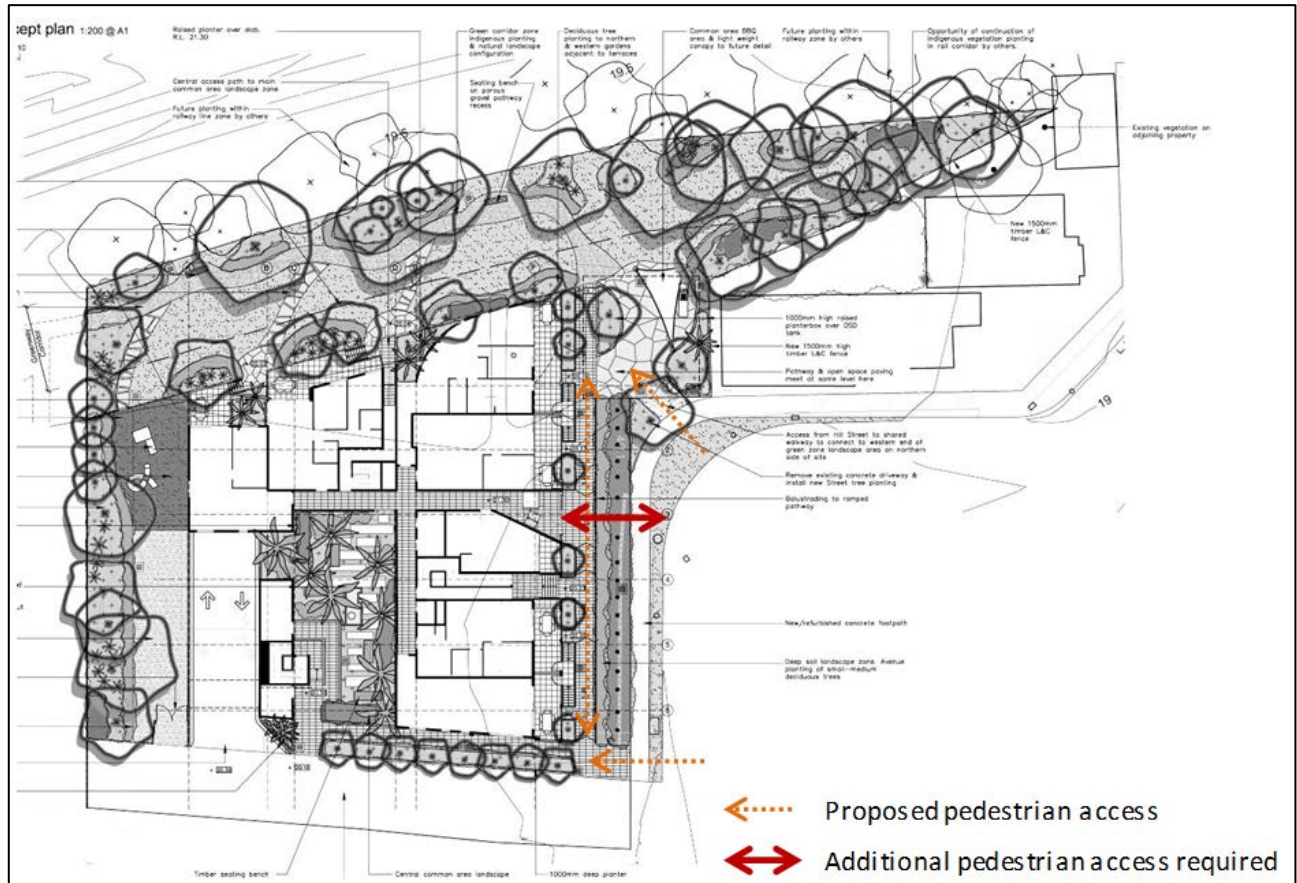
The proposal is supported for approval provided that some minor amendments are made in accordance with the recommendations 1 to 6 described above. Amended drawings should be submitted to the AEP for sign off."

The issues raised by the AEP were provided to the applicant and were addressed in amended plans, along with other planning issues which were raised. The chair of Council's AEP provided the following comments regarding the amended proposal (subject to this assessment):

"The amended plans have incorporated most of the recommendations provided by the AEP in the report dated 10 July 2015. The amended plans are generally supported for approval, subject to some minor changes that could be included as conditions of consent, as follows:

- Entry to the lobby: Building access to the main lobby is not clearly visible from Hill Street and does not provide a legible address for the building. Also, the proposed pedestrian

access located on the edges of the Ground Floor fronting onto Hill Street will diminish the privacy of the Ground Floor terraces. Therefore, the proposal should provide a direct pedestrian path between Hill Street and the main entry to the lobby area to improve pedestrian legibility and street address. In this case, the removal/transplanting of one or two bushes are well-justifiable.



- **Finishes to the Northwest Elevation:** *The balconies to the Northwest elevation are important and prominent features of the elevation, which will be highly visible from the greenway/light rail corridors and surrounding areas. The proposed rendering and painting (RP) to the balconies, therefore, is not considered an appropriate finish. Self-finished external material, such as alucobond, should be provided to the Northwest balconies for long term ease of maintenance, better aesthetics and longevity.”*

The above comments and suggested recommended conditions are reasonable and have been included in the recommended conditions. It is noted the “additional” pedestrian access is to the street/setback area as the entrance to the building is shown on the plans.

The following provides a response to the principles within the SEPP:

Principle 1: Context

The character of the area is undergoing significant transition, although this is not the case for the whole surrounding area. Rather, it is particularly true of the masterplan sites to the south and east and areas generally adjacent to the light rail corridor. To the north-east and further east (beyond the Masterplanned sites), the prevailing scale is lower and is likely to remain so under the current planning controls.

The character of the building is consistent with that envisaged by the planning controls, which consciously and actively promotes redevelopment from industrial to higher density residential building forms, setback from the light rail corridor to provide a green corridor.

Principle 2: Scale

As discussed above, the site will result in a significant change in scale compared to surrounding lower scale residential buildings, many of which are one storey in height. However, this is envisaged and encouraged by the planning controls applying to the site and adjoining sites. The scale is generally consistent with that envisaged by the controls and also consistent with the adjoining approved development. The proposed FSR and height is addressed in Section 10 of this report.

Principle 3: Built form

The proposed building footprint takes a U shaped form. This is different to the schematic arrow-head form or envelope within the MDCP 2011 Masterplan provisions, although is an appropriate form and site-specific response, allowing light, ventilation and amenity to the dwellings and some articulation of form. The setbacks proposed are consistent to those specified in MDCP 2011, with a 9 metre setback to the southern boundary, 6 metre setback to Hill Street and 11.5 metre setback to the western light rail boundary. The setback to the Right of Way is approximately 5.9 metres (which is not specified within the Masterplan area under Part 9.11 of MDCP 2011 although a greater setback is favoured). The provision of a U shaped form can be considered to have pushed some massing and form westwards, although a more articulated form.

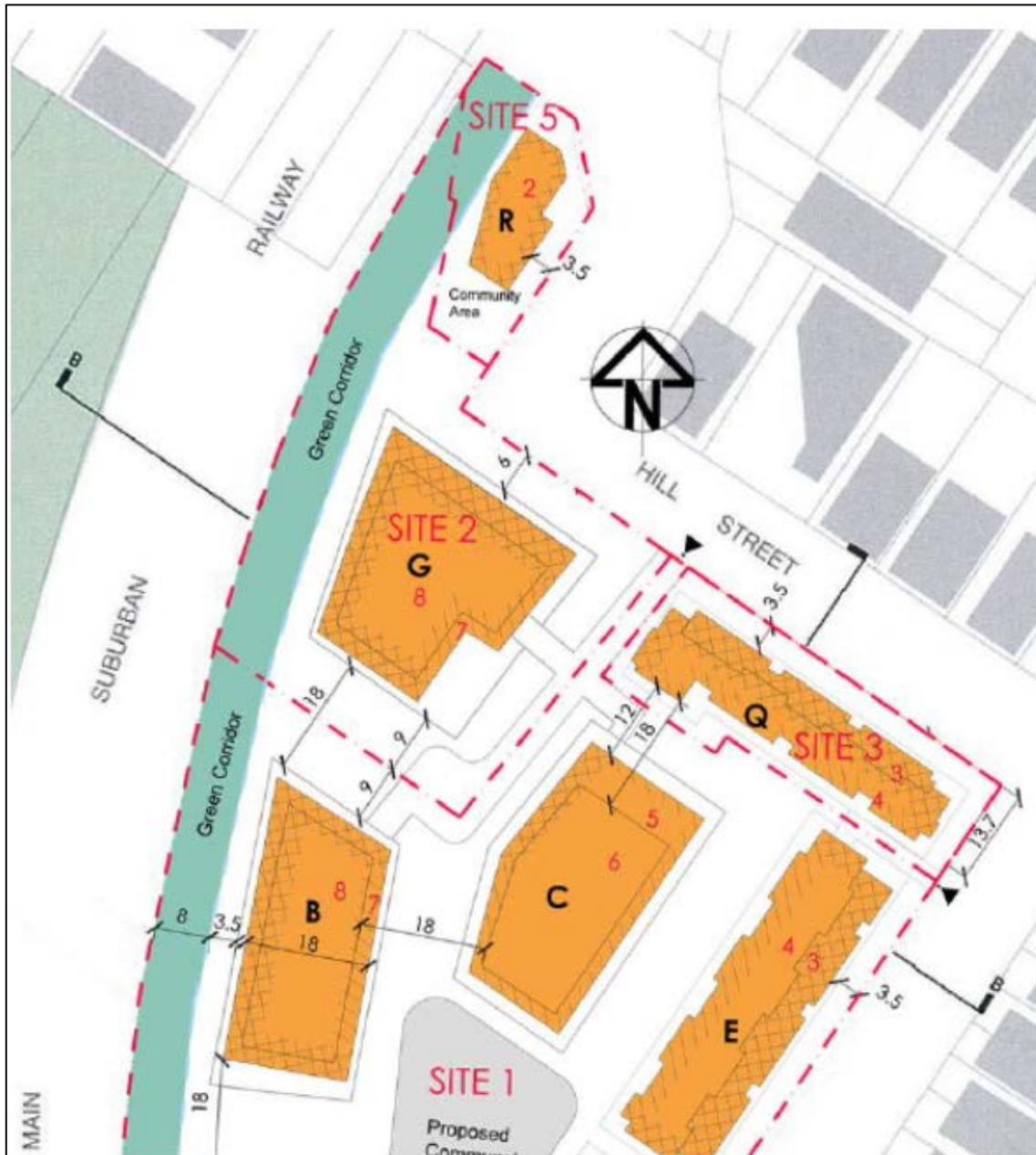


Image 33: Masterplan extract under Part 9.11 of MDCP 2011

Principle 4: Density

The scale is generally consistent with that envisaged by the controls and also consistent with the adjoining approved development. The proposed FSR and height is addressed in Section 10 of this report.

Principle 5: Resource, energy and water efficiency

The proposal is acceptable in this regard. A BASIX Certificate was provided with the original proposal and amended plans.

Principle 6: Landscape

The landscaped response for the site is appropriate and acceptable. The green corridor provided is a public benefit of the proposal and the overall landscaped area exceeds the MDCP 2011 controls. Revised plans included a pathway in the landscaped corridor and appropriate conditions are included in the recommendation.

Principle 7: Amenity

The proposal provides good amenity for the dwellings.

Principle 8: Safety and security

The proposal results in far improved street surveillance than the current situation. This would be further improved by refinement recommended by the AEP. The proposal is acceptable when considered against CPTED principles.

Principle 9: Social dimensions and housing affordability

No affordable housing is provided, although is not required under the planning controls. The unit mix is acceptable and complies with the MDCP 2011 controls (except for a slight non-compliance related to studio apartments).

Principle 10: Aesthetics

The proposed building is contemporary. The AEP comments regarding composition, materials and elevations are supported and the proposal is well considered.

Residential Flat Design Code

The RFDC is a set of guidelines that provide benchmarks for better practice in the planning and design of residential flat buildings to achieve environmental sustainability, improved energy efficiency and residential amenity and higher design quality to improve the presentation of the building to the street. The Code achieves this by providing controls to ensure that developments respond to their local context, and provide a suitable site analysis and quality design.

Whilst the majority of the provisions contained in the RFDC are generally covered by MDCP 2011 and are considered as part of the assessment of the application presented throughout this report, the RFDC contains the following requirements that are not specifically addressed in MDCP 2011:

(i) **Building Separation**

Under the RFDC, the following minimum building separation requirements are recommended for residential flat developments over 8 storeys (noting the separation is 18 metres between habitable rooms for buildings up to 8 storeys):

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	24 metres
Habitable Rooms/Balconies to Non-Habitable Rooms	18 metres
Non-Habitable Rooms to Non-Habitable Rooms	12 metres

The building is setback 9 metres from the southern boundary (as specified in the MDCP 2011). The building to the south on the adjoining site has been approved with a setback of approximately 6 metres from the subject boundary and critical interface, as depicted below.



Image 34: Adjoining approved development - separation

The proposal does not comply with the minimum separation distances recommended in the RFDC between buildings. Despite this, the separation is considered acceptable for the following reasons:

- A 9 metre setback is provided to the southern boundary consistent with the MDCP 2011;
- The separation distance in the new ADG provides for one half of the required separation distance from the boundary (so as to not penalise buildings for a deficient setback on another site); and
- The proposal results in acceptable overshadowing (complying with the MDCP 2011) for the northern face of the adjoining approved proximate building.

(ii) Apartment Layouts and Minimum Areas

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

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

Information submitted with the amended proposal indicates the proposal generally complies with the minimum apartment size requirements. The studio apartment on the ground floor is 37.31sqm, slightly below 38.5sqm although has a good sized terrace space. The one bedroom apartments comply with the “cross through” controls although not all comply with the single aspect sizes

(although are generally very close). Similarly, some 2 bedroom apartments do not meet the sizes specified above.

The unit sizes do comply with the more recent Apartment Design Guide (ADG) (35sqm for studios, 50sqm for one bedroom, 75sqm for 2 bedrooms and 95sqm for 3 bedroom apartments).

There are 17 units which contain designated studies. The majority of these appear to utilise space appropriately such that they appear as secondary spaces suitable for studies, when considering circulation space, (and this also enhances the diversity of unit types provided). However, there are 5 apartments which include “studies” which are considered capable and likely to be used as bedrooms. This includes 2 on the ground level, 1 on the second floor and 2 on the fourth floor (generally in the north-east corner).

Of these five rooms, 3 have access to light (Units 1, 15 and 30) therefore a suitable condition has been included to provided in this regard.

(iii) Ceiling Heights

Under the RFDC, the suggested floor to ceiling heights for residential flat buildings are 2.7 metres for the ground and first floors containing residential habitable rooms, 2.4 metres for the remaining residential levels above and 1.5 metres for residential attics. The proposal has been amended to increase floor-floor heights (to 3.1 metres) to enable the provision of 2.7 metres ceiling heights.

(iv) Ground Floor Apartments

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

(v) Other Matters

The proposal is considered acceptable when considered against other provisions in the RFDC including relating to building depth, apartment depth/layout, balconies, natural ventilation and solar access.

7. State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

The changes to SEPP 65 were notified on the NSW legislation website on 19 June 2015, but commenced 4 weeks after this date on 17 July 2015. The application was submitted prior to this date and the new SEPP 65 contains a savings provision so it does not apply to the subject application.

The SEPP prescribes 9 design quality principles to guide the design residential flat buildings and to assist in assessing such developments. The draft principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and architectural expression. The proposal also is considered satisfactory against the ADG, which generally replicates the provisions of the RFDC, with some greater flexibility relating to building separation and unit sizes.

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

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

9. State Environmental Planning Policy (Infrastructure) 2007

The site is located immediately adjacent to a rail corridor. Clauses 85 and 86 of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) provide guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the SEPP relates to the impact of rail noise or vibration on non-rail development, and for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

The development involves excavation works in the vicinity of a rail corridor and requires the concurrence of Sydney Trains. The application was referred to Sydney Trains and concurrence was given to the development. Sydney Trains' requested conditions of consent have been included in the recommendation.

In terms of noise impacts, the SEPP requires consideration of guidelines and measures to ensure internal noise criteria are met. Two acoustic reports were submitted regarding acoustic impacts (both from rail and aircraft noise). The reports conclude that noise from rail will be less than noise from aircraft and subject to meeting recommendations regarding aircraft noise mitigation, the proposal will meet rail noise criteria. The recommendations regarding acoustic treatment relate to treatment and specifications of walls, ceiling/roof, glazing, doors and mechanical ventilation. Conditions of consent have been included in the recommendation to ensure acoustic amenity.

10. Marrickville Local Environmental Plan 2011**(i) Land Use Table and Zone Objectives (Clause 2.3)**

The site is zoned R1 – General Residential under the provisions of MLEP 2011. The development is permissible with Council's consent under the zoning provisions applying to the land.

The development is acceptable having regard to the objectives of the R1 - General Residential zone, which anticipate the use proposed.

(ii) 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.

(iii) Height (Clause 4.3)

A maximum building height of 29 metres applies to the land under MLEP 2011. The development has a maximum building height of 30.6 metres, to the lift core/overrun. This represents a non-compliance of 2.6 metres or 5.5%. The non-compliance is best illustrated below:

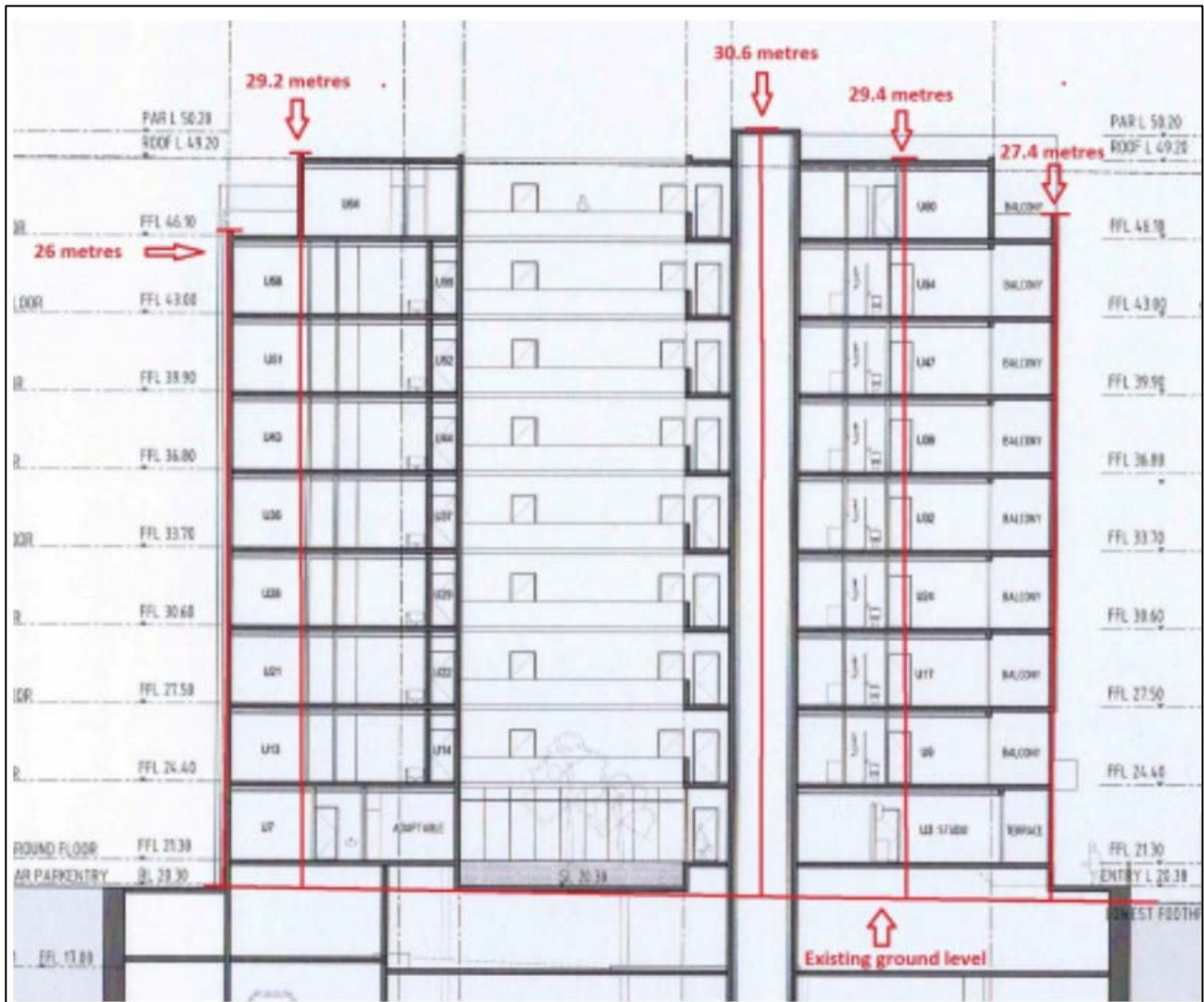


Image 35: Height non-compliance

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the revised application. That request is discussed under the heading "Exceptions to Development Standards (Clause 4.6)". Clause 4.6 Variation Request related to the height development standard is included at Attachment A.

(iv) Floor Space Ratio (Clause 4.4)

The development has a gross floor area (GFA) of 5,522.5sqm which equates to a FSR of 1.91:1, which does not comply with the development standard. This represents a variation of 477.25m² or 9.4%. A maximum floor space ratio (FSR) of 1.75:1 (5,045.25m²) applies to the development under MLEP 2011.

NOTE: The development has an additional 108m² of GFA when including the 8 basement car parking spaces that are beyond the DCP parking requirements and therefore must be counted as gross floor area in MLEP 2011. This would equate to an FSR of 1.95:1. The additional car parking spaces are considered to be acceptable given that they are within the basement, do not add any bulk and scale to the building and numerous submissions received raise concerns with the availability of car parking.

A written request, in relation to the development's non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011,

was submitted with the application. That request is discussed under the heading “Exceptions to Development Standards (Clause 4.6)”. Clause 4.6 Variation Request related to the FSR development standard is included at Attachment B.

(v) Exceptions to Development Standards (Clause 4.6)

The development exceeds the maximum building height development standard prescribed under Clause 4.3 of MLEP 2011 and the FSR development standard prescribed under Clause 4.4 of MLEP 2011. Written requests in relation to the contravention to the building height and FSR development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 were submitted with the revised application (refer to Attachments A and B).

Height

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

- The proposed built form is similar to surrounding buildings;
- The predominant form of the building complies with the height;
- The non-compliant portions of the building do not materially add bulk or scale and account for around 5% of the building footprint;
- The habitable space is below the 29 metre building height development standard;
- No undue precedent will be set;
- No material amenity impacts will result on surrounding land;
- The proposal generally complies with the planning controls and expected development of the site;
- The proposal is acceptable for the likely future built form context and landscaped areas mitigate against built form;
- Redevelopment of adjoining sites is not precluded; and
- The proposal exhibits design excellence.

The written request addresses the zone objectives and the objectives of the height development standard, and matters required of Clause 4.6 of MLEP 2011.

The consent authority, in addition to considering the applicant’s request, must consider the objectives of the height development standard. These are outlined below:

- “(a) to establish the maximum height of buildings,*
- (b) to ensure building height is consistent with the desired future character of an area,*
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.”*

The first objective is not relevant as it is operational.

The desired future character of the area is outlined in the Masterplan controls for the site and the provisions of Part 9.11 of MDCP 2011. In this regard, the following are provided as the desired future character attributes in Part 9.1 of MDCP 2011:

- “1. To protect and preserve the identified period buildings within the precinct and encourage their sympathetic alteration or restoration.*
- 2. To protect any identified heritage items within the precinct.*
- 3. To maintain any perceived distinctly single storey streetscapes that exist within the precinct.*

4. *To protect any significant streetscape and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns.*
5. *To retain and maintain uniform and mature trees along The Boulevarde and views towards Johnston Park.*
6. *To preserve the mixed character of the precinct.*
7. *To ensure the provision and location of off-street car parking does not adversely impact the amenity of the precinct.*
8. *To protect the identified values of the Lewisham Estate HCA.*
9. *To ensure orderly development on masterplan sites in accordance with the principles of the masterplan vision, including allotment amalgamations, where required, that are not detrimental to achieving the overall masterplan structure and achieve an efficient and high quality built outcome.*
10. *To ensure that new any development located on the GreenWay and Light Rail Corridor acknowledges and respects its environmental and social values; and adheres to the design principles and planning considerations for development fronting the GreenWay Corridor as detailed within 9.11.4 Precinct-specific planning controls."*

The proposal is considered consistent with these objectives. While the proposal does not preserve a single storey character, the site-specific controls for the site take precedence, given the above objectives apply to the whole precinct. The development is for the whole of an identified site (Site 2 under the Masterplan area MA 11.1) and does not preclude development of other identified sites. A Greenway corridor is provided, consistent with the future character sought to be established for the site and wider area.

Regard should be given to the non-compliance with the number of storeys in Part 9.11 of MDCP 2011. However, given this could be achieved with the same height proposed by varying the floor-floor heights, greater weight is given to the height development standard under MLEP 2011 (this has been an approach generally adopted by the Land and Environment Court in such instances, although this needs qualification where a FSR non-compliance is involved). Also, the adjoining approved development site includes heights to 8 storeys, which also establishes a future height and context for the subject site. The height of the development would generally be consistent with the adjoining approved development despite it constituting 9 storeys. This is due to:

- Natural ground level is higher on the subject site compared to the adjoining site at 6 – 26 Grove Street; and
- The ground floor level of Building B (being the largest building) is elevated above natural ground level.

The concurrence of the Secretary for Planning has been provided to the Council (and thereby the JRPP). Contravention of the development standard does not raise any matter of significance for State and Regional environmental planning, and there is no public benefit in maintaining the development standard for the development, when all aspects of the proposal are considered.

Having regard to all matters, it is considered the proposed height non-compliance is considered justified.

FSR

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

- The proposed built form is similar to surrounding buildings;
- The design sits comfortably within the established and likely future built form;
- The density and form is similar to adjacent development;
- No undue precedent will be set;
- No material amenity impacts will result on surrounding land;

- The proposal generally complies with the planning controls and expected development of the site; and
- The building has more than acceptable environmental performance will not set a precedent for other applications.

The written request addresses the zone objectives and the objectives of the FSR development standard, and matters required of Clause 4.6 of MLEP 2011.

The consent authority, in addition to considering the applicants request, must consider the objectives of the FSR development standard. These are outlined below:

- “(a) to establish the maximum floor space ratio,*
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,*
- (c) to minimise adverse environmental impacts on adjoining properties and the public domain.”*

The first objective is not relevant as it is operational.

The desired future character of the area is outlined in the Masterplan controls for the site and the provisions of Part 9.11 of MDCP 2011 and has been addressed in relation to the height non-compliance above. The proposal is considered consistent with the desired future character of the area:

In terms of the last objectives, the impacts (and particularly from the FSR non-compliance) of the proposal reasonably minimise adverse impacts on adjoining properties. The “adjoining” properties are technically those identified for redevelopment in MDCP 2011. In any event, the amenity impacts are reasonably minimised by the proposed setbacks, landscaping and building siting. The amenity impacts from the proposal are considered consistent with that envisaged for the site, particularly at key interfaces.

There is potential adverse overshadowing of the adjoining approved building to the south (known as “Building B” in that approval), which is addressed in Section 11 of this report (complying with overshadowing requirements). Impacts on the wider area from the FSR non-compliance are not considered severe and do not warrant refusal.

The impacts on the public domain are considered positive, with an improved relationship with the street and footpath compared to the existing situation.

Council has through numerous decisions accepted variations to the FSR development standard prescribed under MLEP 2011. Council has acknowledged that there is a disconnect between the height of buildings and FSR development standards that apply under the provisions of MLEP 2011 and as a consequence, a breach of the FSR development standard is common and in some cases such as this proposal, is considered appropriate. Given the variations that have been accepted by Council in the past and the diminished importance of compliance being achieved with the numerical component of the standard, compliance with the standard is considered to be unnecessary and unreasonable in this circumstance.

The concurrence of the Secretary for Planning has been provided to the Council (and thereby the JRPP). Contravention of the FSR development standard does not raise any matter of significance for State and Regional environmental planning, and there is no public benefit in maintaining the development standard for the development, when all aspects of the proposal are considered.

Having regard to all matters, it is considered the proposed FSR non-compliance is justified.

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

Clause 5.9 of MLEP 2011 concerns the protection of trees identified under MDCP 2011.

There are no trees on the property covered by and protected under MDCP 2011. However, there are conifers adjoining the boundary to Hill Street. These do not add positively to the landscaped character or street safety and the area will benefit by their removal and more appropriate planting.

Council's Trees Officer has supported the proposal, noting a significant increase in landscaped urban forest cover and suggested conditions of consent, which are included in the recommendation.

The submitted landscape plan was reviewed by Council's Environmental Services Section with regards to biodiversity who recommended that the plant species selection be amended to provide native plantings. A suitable condition requiring an amended landscape plan before the issue of a construction certificate has been incorporated into the recommendation.

(vii) Heritage Conservation (Clause 5.10)

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

(viii) Earthworks (Clause 6.2)

The proposal involves excavation. The following matters are required to be considered:

- “(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.”*

The proposal is considered acceptable against these matters. The site is affected by groundwater and the soil contains some contaminants. However these matters and the above considerations are able to be appropriately addressed by the recommended conditions.

(ix) Flood Planning (Clause 6.3)

The land is not identified as land that is shown as “Flood planning area” on the MLEP 2011 Flood Planning Area Map. However, the land is known to be subject to localised flooding and a Flood Study was provided with the application.

This matter is discussed in Section 11 of this report.

(x) Terrestrial Biodiversity (Clause 6.4)

The land is identified as “Biodiversity” on the MLEP 2011 Natural Resource - Biodiversity Map. A report was prepared regarding potential impacts on Long Nose Bandicoots (as “7 part test”).

The report found no evidence of bandicoot habitation at the site. The report concluded there would be no significant impact although did recommend measures to reduce any potential impacts. These measures are included as conditions within the recommendation.

It is considered that the proposed landscaped and tree cover will provide opportunity for improved urban wildlife.

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

The land is located within the < 20 Australian Noise Exposure Forecast (2033) Contour.

The carrying out of development would result in an increase in the number of people potentially affected by aircraft noise.

An Acoustic Report was submitted with the application which details that the development could be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2021:2000. The report contains recommendations to be incorporated into the development in order to mitigate acoustic impacts. Appropriate conditions are included in the recommendation to ensure the requirements recommended within the Acoustic Report are incorporated into the development.

11. Marrickville Development Control Plan 2011

PART 2 – GENERIC PROVISIONS

(i) Urban Design (Part 2.1)

The development is acceptable having regard to the relevant aspects of the 12 urban design principles. These have been addressed in response to SEPP 65 and the comments from the AEP.

(ii) Site and Context Analysis (Part 2.3)

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

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

In accordance with Part 2.5 of MDCP 2011, the development would require a minimum of 13 adaptable dwellings, 13 accessible resident parking spaces and 4 accessible visitor parking spaces. In addition, all areas of the development are required to be accessible by persons with a disability. The proposal complies with these requirements. Appropriate conditions have been included in the recommendation to ensure compliance.

(iv) Acoustic and Visual Privacy (Part 2.6)

In accordance with Part 2.6, the layout, setbacks and design of the development would ensure that the visual and acoustic privacy currently enjoyed by residents of adjoining residential properties is reasonably protected having regard to the planning controls which facilitate a scale of development generally as proposed.

The most sensitive interface with surrounding land is to the east, where the edges of the two “wings” of the building contain balconies and windows mostly to bedrooms (living areas generally oriented to the street for the northern wing), with the setback to the boundary (approximately 5.9 metres) and further driveway, reasonable setbacks provide reasonable consideration of privacy impacts. Given the planning controls applying to the site to the east facing Grove Street, it is anticipated that site(s) will be developed in the future. Another sensitive interface is to the dwellings at 1 and 3 Hill Street (until they may be developed). However, the setback of 6 metres to

the street is consistent with MDCP 2011 and the interface and use of balconies northwards should not be dictated by this current relationship.

Internal privacy is addressed by use of louvres, orientation of rooms/spaces and the like.

The southern elevation does not contain south-facing balconies and the southern side of the west facing units are provided with screens, although only on alternate levels. The orientation of the balconies and likely outlook, as well as the siting and separation relative to the adjoining approved development on Site 1 (Building B), is such that further screening is not considered necessary. A condition has been included to ensure that the privacy screens for dwellings facing north west are extended appropriately along the relevant elevations.

The proposed use is not considered to lead to adverse aural privacy impacts.

Appropriate conditions are included in the recommendation with regards to acoustic amenity during the construction phase of the development and on-going operation of the development.

(v) Solar Access and Overshadowing (Part 2.7)

Overshadowing

The shadow diagrams submitted with the application illustrate the extent of overshadowing on adjacent residential properties, with detailed plans and a table provided regarding the overshadowing impact on the northern façade of building B on the adjoining site (refer to Attachment C).

These plans include analysis at hourly intervals in mid-winter between 9.00am and 3.00pm and demonstrate that the development complies with Council's overshadowing controls (of not less than 2 hours in midwinter between 9.00am and 3.00pm).

There are units within Building B which only receive two hours of solar access in the mornings in mid-winter. However, this satisfies Part 2.7 requirements (of 2 hours between 9.00 am and 3.00pm) and is considered acceptable, particularly when considering the proposal complies with the southern setback control, a setback is provided to the upper level and the overshadowing largely arises from the adjoining development not complying with the minimum setback control, in the DCP, which the subject property should not be "penalised" for.

47 out of 64 (73%) of dwellings within the development would achieve a minimum of 3 hours solar access in mid-winter which is considered acceptable.

(vi) Social Impact Assessment (Part 2.8)

Social impact was addressed in the Statement of Environmental Effects (SEE) and is considered acceptable. The development generally conforms to anticipated development of the site and there will be some public domain and urban consolidation benefits arising from the proposal, despite impacts created and associated with the proposed scale of the building.

The development satisfies Part 2.8 of MDCP 2011.

(vii) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 contains objectives and controls relating to community safety. The proposal is acceptable when considered against these objectives and controls. Appropriate conditions are included in the recommendation regarding lighting and anti-graffiti treatment to the development.

(viii) Parking (Part 2.10)

Car, Bicycle and Motorcycle Parking Spaces

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

Component	Control	Required	Proposed	Complies?
Car Parking				
Resident Car Parking	0.4 car parking space per studio	1 studio units = 0.4 spaces	72 spaces	Yes
	0.5 car parking spaces per 1 bedroom unit	Nil (all designed as adaptable dwellings)		
	1 car parking space per 2 bedroom unit	43 x 2 bed unit = 43 spaces		
	1.2 car parking spaces per 3 bedroom unit	7 x 3 bed unit = 8.4 spaces		
	1 car space per 1 adaptable dwelling	13 accessible spaces		
	TOTAL:	65 spaces		
Visitor Car Parking	0.1 car parking space per unit	51 units = 5 spaces	9 spaces	Yes
	1 accessible visitor's car parking space per 4 accessible car parking spaces	3 accessible space TOTAL: 8 spaces		
Bicycle Parking				
Resident Bicycle Parking	1 bicycle parking space per 2 units	64 units = 32 spaces	39 spaces	Yes (resident), No visitor
Visitor Bicycle Parking	1 bicycle parking space per 10 units	64 units = 6 spaces		
Motorcycle Parking				
Motorcycle Parking	5% of the total car parking requirement	3-4 parking spaces required	4 spaces	Yes

Table 2: Car, Bicycle and Motorcycle Parking Control Compliance Table

As detailed above, the development generally complies with the car, bicycle and motorcycle parking requirements. There is a slight under-provision of bicycle parking. However, there is an informal space within the basement which may be able to be used for parking of bicycles by visitors, despite the total not being formally met.

Vehicle Service and Delivery Area

One vehicle service space is required to be provided for 50 flats (above first 50) or home units up to 200 plus one space per 100 thereafter. This is provided in an appropriate space near the end of the driveway to the basement at Basement Level 1.

(ix) Fencing (Part 2.11)

Fencing details have not been provided and are required by a recommended condition of consent.

(x) Biodiversity (Part 2.13)

2.13.3 Protection of Endangered/Threatened Species

The land is located in the Bandicoot Protection Area as identified in the Biodiversity Map contained in Appendix 3 of Part 2.13 of MDCP 2011 being an area identified as a potential habitat for the Long-nosed Bandicoot. The property has a site area which is greater than 450sqm. This issue has been discussed in Section 10 of this report.

(xi) 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 new residential developments such as proposed.

In relation to water conservation requirements such developments are required to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).

Council's Development Engineer has reviewed the plans and found the proposal to be acceptable subject to imposition of conditions, which are included in the recommendation.

(xii) Landscaping and Open Spaces (Part 2.18)

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

Landscaped Area

The proposal complies with the minimum 45% landscaped area within Part 2.18.

Private and Common Open Space

The units are provided with appropriate private open space, augmented by the courtyard and landscaped area to the west, provided private and communal open space which is superior to most new developments. The development satisfies Part 2.18 in this regard.

(xiii) Tree Management (Part 2.20)

This matter has been discussed in Section 10 of this report.

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

Various site facilities outlined in Part 2.21 are acceptable and/or able to be appropriately managed and regulated through the recommended conditions of consent. This includes the proposed waste area, which can accommodate the required bins.

(xv) Flood Management (Part 2.22)

The land is not identified as land that is shown as "Flood planning area" on the MLEP 2011 Flood Planning Area Map, although is subject to flooding.

The proposal was accompanied by a Flood Study. During assessment, an issue regarding the basement levels was raised. This matter was resolved in the amended plans.

The application was referred to Council's Development Engineer who raised no concerns with respect to flooding, subject to the imposition of conditions that have been incorporated into the recommendation.

(xii) Contaminated Land (Part 2.24)

This matter has been discussed in Section 5 of this report.

(xiii) Stormwater Management (Part 2.25)

The application was referred to Council's Development Engineer who recommended conditions to be included in the recommendation to address stormwater management.

Part 4 - RESIDENTIAL DEVELOPMENT

Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings

Part 4.2 of MDCP 2011 provides controls relating to Multi Dwelling Housing and Residential Flat Buildings provisions including building form, building detail and desired future character guidelines and controls for specific centres. An assessment of the development having regard to the relevant provisions of Part 4.2 of MDCP 2011 is provided below.

(i) General Controls (Part 4.2.3)

Part 4.2.3 of MDCP 2011 prescribes the following unit mix requirements for residential flat buildings containing 6 or more dwellings:

“C1 New developments with six or more dwellings must provide the following mix of dwelling types:

- i. Studio 5% - 20%;*
- ii. 1 bedroom 10% -40%;*
- iii. 2 bedroom 40% - 75%; and*
- iv. 3 bedroom or bigger 10% - 45%.”*

The development includes 1 x studio dwellings (2%) 14 x 1 bedroom dwellings (20%), 43 x 2 bedroom dwellings (67%) and 7 x 3 bedroom dwellings (11%) which complies with the abovementioned unit mix requirements, with the exception of studio apartments. Given the very minor non-compliance, the proposed unit mix is considered acceptable, with a good variety of unit types. The above excludes proposed studios which may be used as bedrooms. Overall these represent around 30% of the total and allow reasonable variety if used as studios. The development is acceptable having regard to Part 4.2.3.

(ii) Built Form and Character (Part 4.2.4)

4.2.1.1 Floor Space Ratio and Site Coverage

The floor space ratio of the development has been discussed in Section 10 of this report.

Part 4.2.4.1 MDCP 2011 specifies the following maximum site coverage controls for residential flat buildings:

Development Type	Maximum Site Coverage
Residential flat building	45% for one storey 35% for two storey 30% for three or more storeys

Council controls specify the site coverage of a development to be *“the proportion of the allotment occupied by the ground floor plan area of a building or buildings, including garages, carports, awnings, out buildings, etc, expressed as a percentage ratio”*.

The site coverage for this proposal, measured in accordance with the above, equates to 28% of the site area which generally complies with the above requirement. The site coverage is considered acceptable.

4.2.4.2 Building Heights

This matter has been discussed in Section 10 of this report.

4.2.4.3 Building Setbacks

Part 9 of MDCP 2011 applies given site-specific controls applying to the site, this is discussed further below within this Section of the report.

(iii) Streetscape, General Appearance and Materials (Part 4.2.5)

The development is considered acceptable with regards to the streetscape design parameters under Part 4.2.5 of MDCP 2011. This was reviewed by the AEP who found the proposal to be suitable. During the assessment Council requested a physical material sample board to ensure that the proposed materials are of a high quality and promote design excellence. In summary, the external materials are proposed to be comprised of:

- Perforated metal screening;
- Brick work;
- Alucobond cladding (white silver);
- Glass balustrades;
- Aluminium louvres;
- Off form concrete;
- Timber fencing; and
- Timber cladding.

The above materials are considered to be contemporary and promote a high quality design.

PART 9 – STRATEGIC CONTEXT

The land is located in the Hoskins Park Planning Precinct (Precinct 9.11) under MDCP 2011. The site has specific Masterplan controls as identified in Image 11 (MA11.1).

The proposal generally complies with the controls outlined in Part 9.11, with the exception of the number of storeys (9 proposed instead of 8). As previously outlined, the proposal generally complies with the height development standard under MLEP 2011 (except for some minor elements that do not significantly alter the perceived height of the proposal) and the height development standard is given greater weight given there is no maximum floor-floor height in the planning precinct controls (such that a building with 8 storeys and higher floor-floor heights could have the same height as proposed).

The building site planning and a U-shaped building is considered an improvement to the concept shown within Part 9.11.

The setbacks, where they are specified in Part 9.11 in relation to boundaries, have been complied with.

The site being developed is the whole of a specifically nominated development site and is not fragmenting other sites identified for redevelopment in the Masterplan area identified. The development is considered to satisfy the desired future character of the area as established in the planning precinct controls.

12. Marrickville Section 94/94A Contributions Plan 2014

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,142,684.98 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014.

13. 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. 43 submissions (including 1 in support) were received raising the following concerns which have already been discussed throughout the main body of this report:

- (i) Non-compliance with the FSR/excessive bulk;
- (ii) The Clause 4.6 Variation request is not well founded and the proposal does not meet the objectives of the standard(s);
- (iii) Heritage Impacts/impacts on predominant 1 storey dwellings;
- (iv) Excessive height;
- (v) Overshadowing impacts on the approved development to the south;
- (vi) A greater diversity of uses should be provided/inconsistent with the zone objectives;
- (vii) Privacy impacts;
- (viii) Design is not high quality;
- (ix) Impacts on the Infrastructure/parks in the area;
- (x) Increased noise levels/noise impacts;
- (xi) Non-compliance with the Part 9.11 site-specific controls under MDCP 2011;
- (xii) Inappropriate/non-compliant setbacks;
- (xiii) Inappropriate/non-compliant unit mix;
- (xiv) More affordable housing should be provided;
- (xv) Need more green space/inappropriate landscaping/central courtyard is in shade;
- (xvi) Adverse social impacts/lack of social impact assessment;

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

- (i) Cumulative Impacts/another high-rise destroying the area.

Comment:

The proposal must be assessed in regard to the prevailing planning controls. Issues of cumulative impacts are considered when planning controls are established and through the Masterplanning process.

- (ii) Traffic Impacts.

Comment:

The proposal will lead to increased traffic, although an expected reduction in truck movements in the surrounding area compared to the use being replaced. A traffic report was submitted with the proposal and reviewed by Council's Development Engineer. The traffic impacts associated with the proposal are not considered of such significance to warrant refusal of the proposal, particularly when the anticipated redevelopment of the site given the planning controls is considered.

- (iii) Lack of parking in the area/parking impacts.

Comment:

The parking proposed is acceptable having regard to the controls under MDCP 2011. Appropriate conditions are included in the recommendations specifying that the residents of the development

will not be eligible for any resident parking schemes. In addition, the parking impacts are not such to warrant refusal of the proposal.

- (iv) Smaller scale (e.g. 4-5 storeys) would be appropriate.

Comment:

Such a requirement would be inappropriate given the building height development standard envisaged for the site under MLEP 2011.

- (v) Construction-related impacts.

Comment:

These are able to be appropriately regulated through the recommended conditions of consent.

- (vi) One-bedroom apartments should meet the minimum of 58sqm as in a Court judgement.

Comment:

Unit sizes are appropriate, also having regard to the provisions of the current SEPP 65 and associated ADG.

- (vii) The proposal should not proceed until the planning controls for the area are reviewed/there should be a moratorium on development in the area due to cumulative impacts and inappropriate current controls.

Comment:

While members of the community may not support the current planning controls for the site, such a position would be both unlawful and unreasonable for land owners.

- (viii) The development should only proceed if WestConnex is abandoned.

Comment:

The WestConnex road proposal is unrelated to the proposal.

- (ix) Proposal is driven by greed/impact on property prices.

Comment:

No evidence has been submitted to support this claim. Property values are not a matter of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979. The development is considered appropriate for reasons discussed within the body of the report.

- (x) A longer consultation period should be provided.

Comment:

The proposal was notified in accordance with the notification guidelines under MDCP 2011. The amendments to the proposal reduced the height and general impacts and re-notification was not required in accordance with MDCP 2011 as it resulted in a lesser impact. Furthermore, Council accepts and considers all submissions even if they are made beyond the closing date.

- (xi) Public transport will not cope

Comment:

The site is well serviced by public transport facilities. Nevertheless, any upgrade of these facilities need to be instigated by the relevant provider(s).

- (xii) There is no Voluntary Planning Agreement (VPA) to compensate for the non-compliances with the MLEP 2011 development standards.

Comment:

A VPA cannot be required of an applicant. There are benefits associated with the proposal, including greater landscaping, soft areas and a green corridor as encouraged by Council's planning controls. Section 94 contributions would be required in accordance with Council's Section 94 Plan.

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. Delivery of positive aspects of the proposal is addressed in the recommended conditions of consent.

14. 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 Plan 2011 and where non-compliances exist, these are considered justified in this instance. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape beyond that anticipated by the planning controls applying to the site. The application is suitable for approval subject to the imposition of appropriate conditions.

PART E - RECOMMENDATION

A THAT the development application to demolish the existing improvements, and construct a 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking with associated landscaping works be **APPROVED** and a **DEFERRED COMMENCEMENT CONSENT** be issued subject to the following terms and conditions:

1. A Remediation Action Plan prepared in accordance with the Stage 2 Detailed Site Investigation, Report Number 610.15756-R1, prepared by SLR Consulting Australia Pty Ltd, dated 6 November 2015 and all requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites must be submitted to and approved by Council.
2. The proposed stormwater adjustment concept plan No.59/23573, dated 24/02/15, is not acceptable to Sydney Water. The proponent shall liaise with Sydney Water to reach an acceptable stormwater deviation proposal. Details of an agreed stormwater deviation proposal approved by Sydney Water shall be submitted to Council for its information.

Evidence of the above matter(s) must be produced to Council or its delegate within two years of the date of the 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	Submitted Date
Drawing No. B01 Rev B	Basement Plan 1	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. B02 Rev B	Basement Plan 2	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. B03 Rev B	Basement Plan 3	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A0 Rev B	Ground Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A01 Rev B	First Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A02 Rev B	Second Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A03 Rev B	Third Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A04 Rev B	Fourth Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A05 Rev B	Fifth Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A06 Rev B	Sixth Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A07 Rev B	Seventh Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A08 Rev B	Eight Floor Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A10 Rev B	Roof Plan	Oct 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A11 Rev B	Elevations Sheet 1	October 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A12 Rev B	Elevations Sheet 2	October 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A13 Rev B	Elevations Sheet 3	October 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A14 Rev B	Elevations Sheet 4	October 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A15 Rev B	Sections Sheet 1	October 2015	Beraldo Design Pty Ltd	23/10/15
Drawing No. A16 Rev B	Sections Sheet 2	October 2015	Beraldo Design Pty Ltd	23/10/15
Job No: 13159	External Finishes Schedule and materials sample board	April 2015	Beraldo Design Pty Ltd	20/5/15
-	Photomontage	-	-	4/2/16
Job Ref: 14/1752/DA1,	Landscape Concept Plan	22/10/2015	Paul Scrivener Landscape Architecture	23/10/15

Issue G.				
Job Ref: 14/1752/DA2, Issue G.	Planting Concept Plan and Details	22/10/2015	Paul Scrivener Landscape Architecture	23/10/15
Certificate No: 613795M_04	BASIX Certificate	04/02/2016	The House Energy Rating Company of Aust. Pty Ltd	4/2/16
Report No. 5462-1.1R	Aircraft Noise Intrusion	5/03/2015	Day Design Pty Ltd	5/2/16
Refer: 5462- 2.1L	Additional Information – Light Rail Noise Assessment	3/02/2016	Day Design Pty Ltd	5/2/16
Report Number 610.15756-R1	Stage 2 Detailed Site Investigation	06/11/2015	SLR global environmental solutions	6/11/15
Project Number 14SUTECO- 0048	Long-nosed Bandicoot Assessment of Significance Report	21/07/2014	Ecological Australia	21/5/15

and details submitted to Council on 20 May 2015, 21 May 2015, 23 October 2015, 6 November 2015 and 5 February 2016 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

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

2. In order to ensure the design quality excellence of the development is retained:
 - a) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - b) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - c) Evidence of the design architect's commission is to be provided to the Council prior to issue of a Construction Certificate.

The design architect of the project is not to be changed without prior notice and approval of the Council.

Reason: To ensure the design quality excellence of the development is retained.

3. The development must provide a direct pedestrian path between Hill Street and the main entry to the lobby area of the building to improve pedestrian legibility and street address. In this case, the removal/transplanting of some of the landscaping shown on the landscape plan is acceptable to facilitate such access. Amended plans demonstrating compliance with this condition must be submitted to and approved by Council before an application is made for a Construction Certificate.

Reason: To improve pedestrian legibility.

4. Self-finished external material, such as *alucobond*, must be provided to the north western balconies for long term ease of maintenance, better aesthetics and longevity. Amended plans demonstrating compliance with this condition must be submitted to and approved by Council before an application is made for a Construction Certificate.

Reason: To provide an appropriate finish to the to the north western balconies, visible from the greenway/light rail corridor.

5. 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.

6. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in the sample board, photomontage and external finishes schedule that is referenced in Condition 1. No changes may be made to these drawings except by way of an application under section 96 of the *Environmental Planning and Assessment Act 1979*.

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

7. Where units or dwellings are provided with separate individual hot water systems, these must be located within the internal area of the unit/dwelling and not on any balcony or terrace.

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

8. The studies in units 1, 15 and 30 shall only be used as studies and not as bedrooms.

Reason: To ensure certain studies are not used as bedrooms.

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

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

10. Each dwelling must be used exclusively as a single dwelling and not be adapted for use as backpackers' accommodation, serviced apartments or a boarding house and not be used for any industrial or commercial purpose.

Reason: To ensure that the proposed dwellings are used exclusively as single dwellings.

11. A minimum of 13 adaptable dwellings must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility. One disabled parking space must be allocated to each adaptable dwelling.

Reason: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.

12. 81 off-street car parking spaces and 1 loading/unloading space must be provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking. The car parking must be allocated as follows:

- a) 59 spaces being allocated to the residential dwellings, with 1 car space being allocated per dwelling;
- b) 13 accessible car parking spaces, 1 accessible car space per adaptable dwelling; and
- c) 9 visitor car parking spaces, 3 of which are designed as accessible spaces.

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

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

13. 39 off-street bicycle parking spaces and 4 motorcycle parking spaces must be provided, maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

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

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

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

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

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

16. The use of any plant and equipment must not give rise to:

- a) transmission of unacceptable vibration to any place of different occupancy;
- b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).

Reason: To prevent loss of amenity to the area.

17. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises must not give rise to 'offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure its operation does not adversely impact on the amenity of the surrounding neighbourhood.

Reason: To protect the amenity of the surrounding neighbourhood.

18. Compliance at all times with the recommendations on Page 10 of the Long Nose Bandicoot Assessment of Significance Report, Project Number 14SUTECO-0048, prepared by Ecological Australia dated 21 July 2015.

Reason: To ensure appropriate protection of bandicoot habitat and ongoing due care.

19. 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.

20. 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).
21. All trade waste must be stored within the site boundaries and contained in such a manner so as not to cause a nuisance.
Reason: To provide for correct storage of wastes.
22. All trees, covered by Part 2.20 of Marrickville Development Control Plan 2011 - Tree Management, not requiring removal to permit the erection of the development must be retained.
Reason: To preserve existing mature trees on the property.
23. Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition. In addition the by-laws of any future residential strata plans created for the property shall reflect this restriction.
Reason: To ensure the development does not reduce the amount of "on street" parking currently available.
24. All stormwater drainage being designed in accordance with the provisions of the 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.
25. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.
Reason: To provide for the existing and potential electrical power distribution for this development and for the area.
26. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the water may be stored separately on site and reused for the watering of landscaped areas.
Reason: To ensure that there are no dry-weather flows of any seepage water directed to the kerb.
27. All piling and excavation works with 25 metres of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.
Reason: To ensure compliance with Sydney Trains concurrence terms.
28. No rock anchors/bolts are to be installed into Sydney Trains property or easements.
Reason: To ensure compliance with Sydney Trains concurrence terms.
29. The applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

Reason: To ensure compliance with Sydney Trains concurrence terms.

30. During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant.

Reason: To ensure compliance with Sydney Trains concurrence terms.

31. Drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.

Reason: To ensure compliance with Sydney Trains concurrence terms.

32. Sydney Trains and Transport for NSW, or any persons authorised by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

Reason: To ensure compliance with Sydney Trains concurrence terms.

33. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.

Reason: To ensure compliance with Sydney Trains concurrence terms.

34. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

Reason: To ensure compliance with Sydney Trains concurrence terms.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

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

35. No work must commence until:

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

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

36. 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.

37. 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.

38. 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 shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

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

39. 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.

40. 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.

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

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

42. 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.

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

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

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

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

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

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

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

45. 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 include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the buildings on the adjoining properties at 1-3 Hill Street and 2-4 Grove Street, Dulwich Hill, if the consent of the adjoining property owners can be obtained after reasonable documented attempts. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

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

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

Reason: To provide a person that residents can contact.

47. 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, construction and landscaping.

Reason: To manage the protection of trees on neighbouring properties whose Tree Protection Zones (TPZs) may be encroached by construction-related activities.

48. Prior to the commencement of works the project arborist shall prepare a tree protection specification and a tree protection plan to be submitted to Council for approval.

Reason: To ensure the protection of trees on neighbouring properties so that their stability and ongoing viability is not compromised.

49. Prior to the commencement of works tree protection measures detailed in the tree protection specification and tree protection plans shall be established.

Reason: To ensure the protection of trees on neighbouring properties so that their stability and ongoing viability is not compromised.

50. 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 tree protection measures comply with the tree protection specification and tree protection plan.

Reason: To ensure the protection of trees on neighbouring properties so that their stability and ongoing viability is not compromised.

51. Tree protection measures detailed in the tree protection specification, tree protection plan and in the Section 4 of Australian Standard Protection of trees on development sites AS 4970—2009 shall be implemented and complied with for the duration of works including demolition, construction and landscaping (except where conditions permit otherwise).
Reason: To ensure the protection of trees on neighbouring properties so that their stability and ongoing viability is not compromised.
52. 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.
53. 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.
54. 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
55. 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.
56. 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.
57. The person acting on this Determination must ensure that all workers on the site, including subcontractors, as part of their site induction, are made aware of the potential presence of Long-nosed Bandicoots (including what they look like) and measures to avoid physical harm to bandicoots before commencing any works on site including site preparation works.
Reason: To ensure all workers on the site are made aware of the potential presence of Long Nosed bandicoots on the development site.
58. 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.

59. Prior to the commencement of works the applicant shall peg-out the common property boundary with RailCorp's land. This work is to be undertaken by a registered surveyor.
Reason: To ensure compliance with Sydney Trains concurrence terms.
60. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
Reason: To ensure compliance with Sydney Trains concurrence terms.
61. Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
Reason: To ensure compliance with Sydney Trains concurrence terms.
62. Prior to the commencement of works or before the issue of a Construction Certificate (whichever occurs first), the applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. The Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the applicant on the level of insurance required.
Reason: To ensure compliance with Sydney Trains concurrence terms.
63. Prior to the commencement of works or before the issue of a Construction Certificate (whichever occurs first), the applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. The Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
Reason: To ensure compliance with Sydney Trains concurrence terms.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

64. Section 94 Contribution
- This condition is imposed in accordance with Section 94 of the Environmental Planning and Assessment Act 1979.
 - Before the issue of a Construction Certificate, the Council must be paid a monetary contribution of \$1,142,684.98 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 25 February 2016.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

(CONTRIBUTION PAYMENT REFERENCE NO. DC001334)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
- | | |
|-----------------------|--------------|
| Community Facilities | \$137,387.79 |
| Plan Administration | \$22,405.49 |
| Recreation Facilities | \$974,267.60 |
| Traffic Facilities | \$8,624.10 |
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in **cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card***.

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

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

65. Before the issue of a Construction Certificate the person acting on this consent must submit to and have approved by Council a detailed landscaping plan to reflect the following requirements:

- a) The pathway running parallel to the north western setback area shall be increased to be a minimum of 2.5 wide over its full extent. The increased dimension must occur along its eastern edge to ensure that a suitable width for deep soil planting is retained. The path shall be constructed with brushed concrete or bitumen as opposed to gravel;
- b) The following plant species are not approved for use:

Trachelospermum jasminoides
Agapanthus orientalis
Streitzia reginae
Clivea miniata
Angozanthus flavidus
Murraya paniculata
Plumeria acutifolia
Rapholepis indica
Xylosma japonica
Calistemon 'Kings Park Special'
Acer sp.
Alcantarea sp.
Alocasia sp.
Hymenosporum flavum
Liriope sp.

- c) The above species shall be substituted with plants detailed within *Appendix A: Plant Species to be used in the Revegetation of the GreenWay* in the *GreenWay Revegetation and Bushcare Plan*, dated January 2011 available on the website at <http://www.greenway.org.au/index.php/biodiversity/biodiversity-strategy>. A detailed planting schedule for that portion of land along the western boundary must be provided. The planting schedule must ensure a complex habitat structure is achieved with a clearly definable under, mid and upper vegetation storey. Species selected

and planted should be sourced from community or wholesale nurseries that stock Sydney region native species.

- d) No use of hybrid or variety native species are permitted.
- e) The groundcover layer must be dense (6 plants per sqm) to provide habitat for the Long-nosed bandicoot, which is a ground-dwelling mammal.

Reason: To ensure that local native species are used in creating a diverse, complex and continuous vegetated buffer.

66. Before the issue of a Construction Certificate the person acting on this consent must submit amended plans to the Certifying Authority's satisfaction to reflect the following requirements:

- a) The privacy screens on the balconies of dwellings 13, 28, 43 and 58 must extend along the entire length of the north eastern side; and
- b) Privacy screens must be provided on the south western side of the balconies within dwellings 12, 20, 27, 35, 42, 50, 57 and 63. The screens shall be constructed from aluminium louvres or similar to a minimum height of 1600mm above the finished floor level of the balcony.

Reason: To minimise overlooking impacts within the development.

67. All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:

- Geotechnical Investigation by Douglas Partners - Report No. 84398.01.R.002.Rev0 dated July 2015.
- Structural Drawings prepared by J.J. Marino & Associates, as follows
 - General & Construction Notes, S0001 – Issue 1 dated 12/08/15
 - Shoring Plan, S0010 – Issue 1 dated 12/08/15
 - Shoring Elevations Sheet 1, S0011 - Issue 1 dated 12/08/15
 - Shoring Elevations Sheet 2, S0012 - Issue 1 dated 12/08/15
 - Shoring Details Sheet 1, S0013 - Issue 1 dated 12/08/15
 - Shoring Details Sheet 2, S0014 - Issue 1 dated 12/08/15

Subject to the following:

- As the proposed shoring design is based on one borehole located adjacent to the rail corridor additional geotechnical investigations (boreholes) are required along the rail corridor frontage to indicate that that top of sound sandstone does not vary significantly. Should the results vary then a revised structural design is to be submitted to Sydney Trains for review and endorsement.
- The excavation may expose Mittagong formation, which has been associated with high groundwater inflows in other areas. The impact of unexpected water inflows on the stability of the temporary batter needs to be addressed.
- The notes in Structural Drawing S0001 need to include instructions for the geotechnical inspection of the excavation face at 2.0m lifts as per the requirements of the geotechnical report.
- Structural Drawing S0012 needs to be updated to include details in relation to the drainage of the granular material located behind the 200 thick retaining wall, and additional details in relation to the cover to reinforcing and details at connections between walls and footing/slabs.
- The nominated PPV limit varies from geotechnical investigation report (Section 7.1.2) compared to Structural Drawing S0010. The Applicant must ensure that the

Structural Drawings are relied upon rather than the geotechnical report with regard to PPV limits.

Before the issue of a Construction Certificate, written confirmation must be received from Sydney Trains and submitted to the Certifying Authority's satisfaction confirming the measures detailed in the documents approved/certified by Sydney Trains under this Condition are incorporated into the construction drawings and specifications. Prior to the commencement of works the Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

Reason: To ensure compliance with Sydney Trains concurrence terms.

68. The following items are to be submitted to Sydney Trains for review and endorsement before the issue of a Construction Certificate:

- Machinery to be used during excavation/construction.
- Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring
- A vibration and movement monitoring plan for the affected rail infrastructure. This Plan is to include, but not limited to:
 1. Potential measures that may be required to limit vibrations, such as, limitations on hammer size, or alternative excavation methods should be provided in the vibration monitoring plan.
 2. A number of inclinometers along the rail corridor frontage are required to monitor ground movements. Locations of the inclinometers and alarm limits need to be provided.

The Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

Reason: To ensure compliance with Sydney Trains concurrence terms.

69. Before the issue of a Construction Certificate the applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Certifying Authority's satisfaction.

Reason: To ensure compliance with Sydney Trains concurrence terms.

70. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g. roof terraces and external fire escapes) that are within 20 metres and face the rail corridor, the applicant is required to install measures (e.g. awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. Before the issue of a Construction Certificate, written confirmation must be submitted to the Certifying Authority's satisfaction that these measures are to be installed and have been indicated on the Construction Drawings.

Reason: To ensure compliance with Sydney Trains concurrence terms.

71. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. Before the issue of a Construction Certificate the Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

72. Before the issue of a Construction Certificate a Risk Assessment, Rail Safety Management Plan, and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Certifying

Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

73. Before the issue of a Construction Certificate the applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

74. Before the issue of a Construction Certificate the applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

75. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the applicant proposes to enter the rail corridor, the Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied before the issue of a Construction Certificate.

Reason: To ensure compliance with Sydney Trains concurrence terms.

76. Before the issue of a Construction Certificate, the landscape and planting plan must be submitted to Sydney Trains for review. The plans must demonstrate that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

77. Details of an anti-graffiti treatment to the elevations of the development must be submitted to and approved by Council before the issue of a Construction Certificate. The applicant is to ensure that the development incorporates appropriate anti-graffiti measures acceptable to Sydney Trains.

Reason: To ensure the proposed development remains free of graffiti and ensure compliance with Sydney Trains concurrence terms.

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

Please refer to the web site for:

- Quick Check agents details - see Plumbing, building and developing then Quick Check agents and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Plumbing, building and developing then Plan submissions

or telephone 13 20 92.

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

Reason: To ensure compliance with Sydney Water requirements.

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

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

80. A proposed maintenance schedule over a minimum 12 month period, to commence on the date that a final Occupation Certificate is issued, relating to site landscaping works (including the greenway corridor) must be submitted to Council's satisfaction before the issue of a Construction Certificate. The schedule must be prepared by a Landscape Architect or qualified Landscape Designer.

Reason: To ensure the proper establishment of site landscaping elements.

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

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

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

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

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

Reason: To ensure adequate mail collection facilities are provided.

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

Reason: To ensure adequate clothes drying facilities are provided.

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

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

86. Before the issue of a Construction Certificate, a Plan of Management must be submitted to Council outlining the on-going security and safety measures within the development.

Reason: To ensure adequate Plan of Management is established for the on-going security and safety measures for the development.

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

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

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

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

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

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

Reason: To provide the potential to reduce greenhouse emissions.

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

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

91. Noise attenuation measures consistent with the recommendations within the Aircraft Noise Intrusion Report, Report No. 5462-1.1R, prepared by Day Design Pty Limited, dated 5 March 2015 and Additional Information – Light Rail Noise Assessment, Report No. 5462-2.1L, prepared by Day Design Pty Limited, dated 3 February 2016 must be incorporated into the development complying with Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" in relation to interior design sound levels and in accordance with details being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

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

92. 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.

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

- a) Access to the premises via the principal places of entries to the building, complying with AS 1428.1- 2009 'Design for access and mobility';
- c) The lift design must comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement;
- d) A minimum of 13 adaptable dwellings being provided complying with AS 4299-1995 "Adaptable Housing"; and
- f) A minimum of 16 car parking spaces (13 accessible residential car spaces and 3 accessible visitor car spaces) must be provided for people with a disability that are

directly accessible to the entrance to the building. The car parking must be designed to comply with AS 1428.1 - 2009 'Design for access and mobility - General requirements for access - buildings' and AS 2890.1 1 'Off-street car parking'.

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

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

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

95. 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.

96. Payment of a Bond, in the sum of \$36,000.00 for the proper performance of public domain and stormwater 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 works are completed satisfactorily and within a reasonable time.

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

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

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

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

98. The site stormwater drainage shall be constructed generally in accordance with stormwater drainage plans SW1 (Rev A dated 27/5/15) and SW2 to SW6 (dated 11/3/15) submitted by Michael Ell Consulting Engineers P/L subject to the following amendments;

- i. 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;
- ii. Inclusion of a minimum 24sqm of raingarden within the treatment train of the water treatment proposal; and
- iii. Construction details of the proposed Council stormwater pipe in Hill Street including a long section of the pipeline, bedding and road restoration details.

Amended plans and evidence of compliance with the above conditions shall be submitted to and approved by Council before the issue of a Construction Certificate.

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

99. The site has been identified as being subject to flooding during a 1 in 100 year storm event in the Hawthorne Canal Flood Study. The 1 in 100 year flood level has been determined to be RL 20.8m AHD. The following flood protection measures shall be undertaken:

- i. All habitable floor levels and protection to the underground carpark shall be set at RL 21.3m AHD (flood level plus 500mm freeboard). All structures below RL 21.3m AHD shall be constructed from flood compatible materials;
- ii. All electrical equipment and wiring shall be waterproofed or installed at or above RL 21.3m AHD;
- iii. A structural engineer's certificate shall be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris and buoyancy up to the 1 in 100 year flood level;
- iv. The existing ground levels throughout the site (including the right of way) shall be maintained so as not to alter the existing overland flow path. Details of all obstructions or changes in level within the overland flow paths shall be detailed on the plan; and
- vi. All fencing within the overland flow path shall be of open type so as to allow for the free flow of water throughout the site so as to maintain existing flows.

Detailed plans and specification complying with 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.

100. 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.

101. Approved Sydney Water construction plans of the stormwater deviation of Sydney Water's stormwater system shall be submitted to Council for information before the issue of a Construction Certificate.

Reason: To ensure that the proposed stormwater deviation proposal has been approved by Sydney Water.

SITE WORKS

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

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

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

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

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

104. During any construction works and activities, no injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.

Reason: To ensure the construction of the development does not affect the amenity of the neighbourhood.

105. 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.

106. The project arborist shall undertake periodic inspections of trees and tree protection measures, as detailed in the tree protection specification.

Reason: To ensure the protection of trees on neighbouring properties so that their stability and ongoing viability is not compromised.

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

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

108. All demolition work must be carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
- b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;

- c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

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

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

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

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

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

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

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

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

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

111. 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) at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice must 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 must 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.

112. 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.

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

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

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

Reason: To provide for correct disposal of wastes.

115. 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.

116. Fixtures for bathroom and kitchen taps, showerheads, dishwashers and toilet cisterns 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:.

Reason: To conserve water.

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

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

Reason: To conserve water.

118. During construction, all holes (e.g. created for footings etc.), machinery and construction material stockpiles must be inspected daily prior to commencing work to ensure no Long-nosed Bandicoots are sheltering in these areas. In the event that a bandicoot is found, no work must proceed until the bandicoot has been safely vacated from the works area.

Reason: To protect Long-nosed Bandicoots.

119. Activities and storage of materials must be kept away from garden beds.

Reason: To ensure the safety and protection of the endangered Long-nosed Bandicoot population (*NSW Threatened Species Conservation Act 1995*) during excavation, demolition or construction work.

120. Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. **Note:** This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the issued alignment levels. Failure to comply with this condition will result in vehicular access being denied.

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

121. 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.

122. 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.

BEFORE OCCUPATION OF THE BUILDING

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

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

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

124. Occupation of the building must not be permitted until such time as:

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

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

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

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

Every 12 months after the Final Fire Safety Certificate is issued the owner shall 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.

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

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

Reason: To ensure compliance with Sydney Water requirements.

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

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

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

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

129. a) Upon completion of the required noise attenuation measures referred to in the “Before the Issue of a Construction Certificate” Section of this Determination and before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority’s satisfaction by an accredited Acoustics Consultant, certifying that the final construction meets Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure’s Development Assessment Guideline titled “Development Near Rail Corridors and Busy Roads - Interim Guidelines” as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate must be prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

Reason: To reduce noise levels within the dwellings from aircraft and rail noise and to ensure that the noise attenuation measures incorporated into the dwellings satisfactorily comply with the relevant sections of Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure’s Development Assessment Guideline titled “Development Near Rail Corridors and Busy Roads - Interim Guidelines”.

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

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

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

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

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

Reason: To ensure that the building is easily identifiable.

133. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Before the issue of an Occupation Certificate the applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

Reason: To ensure compliance with Sydney Trains concurrence terms.

134. Before the issue of an Occupation Certificate the applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or

easement. The Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

135. The Applicant must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains before the issue of an Occupation Certificate. The Certifying Authority must receive written confirmation from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.

Reason: To ensure compliance with Sydney Trains concurrence terms.

136. Before the issue of an Occupation Certificate, new advanced trees must be planted in accordance with the following criteria.

- a) The species of trees and planting stock size shall be as detailed in the submitted landscape plan.
- b) The planting stock shall comply with Australian Standard *Tree stock for landscape use* AS 2303—2015.
- c) The planting detail in the landscape plan shall be amended to reflect the planting detail shown in the Marrickville Street Tree Master Plan 2014.
- d) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3, in accordance with the amended planting detail.
- e) Each replacement tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
- f) 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 contribute to local amenity and to achieving sustainable urban forest canopy.

137. Before the issue of an Occupation Certificate the project arborist shall certify in writing to the Certifying Authority that the conditions relating to tree protection, tree planting and landscaping works 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 Certifying Authority shall report breaches of the conditions to Marrickville Council.

Reason: To confirm that tree protection of trees on neighbouring properties has been complied with appropriately and adequately and that new trees have been properly planted so as to ensure their stability and ongoing growth and development.

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

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

139. 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

140. 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.
141. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.
Reason: To ensure that items of local heritage value are preserved.
142. Heavy duty concrete vehicle crossing and footpath, 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.
143. 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.
144. The existing damaged or otherwise defective kerb and gutter, footpath and/or road pavement adjacent to the site shall be restored in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before the issue of the Occupation Certificate.
Reason: To provide suitable 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.
145. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage, re-use and quality measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. The Certificate shall also state that no dry-weather flows of seepage or groundwater have been connected to any kerb outlets. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.
Reason: To ensure drainage works are constructed in accordance with approved plans.
146. 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 maintenance plan;
 - 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.

147. 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 positive covenants, 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.

148. The applicant shall provide security, in a manner satisfactory to Council, for the proper maintenance of the Road and Footpath works in an amount of \$3,600.00 for a period of twelve (12) months from the date of completion of the Road works as surety for the proper maintenance of the Road and Footpath works.

Reason: To provide security for the maintenance of Road and Footpath 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.

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the Building Code of Australia has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- The property lies within the 20 - 25 Australian Noise Exposure Forecast (ANEF) Contour (2033), as advised by the Commonwealth Department of Aviation, and it would be advisable to noise attenuate the development in accordance with Australian Standard AS 2021 'Acoustics - Aircraft noise intrusion - Building siting and construction'.
- Buildings built or painted before the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted

surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned before occupation of the room or building.

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

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

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

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

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

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

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

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

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

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

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

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

Waste Service - SITA ☎ 1300 651 116
www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW

☎ 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

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

<u>Premises:</u>	1A Hill Street, Dulwich Hill
<u>Applicant:</u>	Beraldo Design Pty Ltd
<u>Proposal:</u>	To demolish the existing improvements, and construct a 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking with associated landscaping.
<u>Determination:</u>	Deferred Commencement Consent
<u>DA No:</u>	201500246
<u>Lot and DP:</u>	Lot 11 DP 1184304
<u>Category of Development:</u>	4
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	General Residential - R1
<u>Development Standard(s) varied:</u>	Clause 4.3 – Height of Building Clause 4.4 – Floor Space Ratio
<u>Justification of variation:</u>	The proposal satisfies the building envelope controls; provides high residential amenity; results in no unreasonable amenity impacts to adjoining properties; is consistent with the objectives of the development standard and the respective zone; and is appropriate in the context.
<u>Extent of variation:</u>	Height – 2.6 metres (5.5%) FSR – 585.25m ² (11.6%)
<u>Concurring Authority:</u>	Council/JRPP under assumed concurrence of the Secretary Department of Planning and Environment
<u>Date of Determination:</u>	