

File Ref: DA201500682

**Synopsis**

This report concerns an application to demolish existing improvements and construct a mixed use development consisting of a 6 storey building (Building A) fronting McGill Street and a 5 storey building (Building B) fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy within Building B for use as art education and café space with 2 basement car parking levels and associated landscape works.

The application was notified in accordance with Council's Notification Policy and 11 submissions were received.

The development has a capital investment value (CIV) of \$20,749,265. Applications with a CIV of more than \$20 million must be referred to the Joint Regional Planning Panel (JRPP) to exercise its consent authority functions under Schedule 4A of Environmental Planning and Assessment Act 1979.

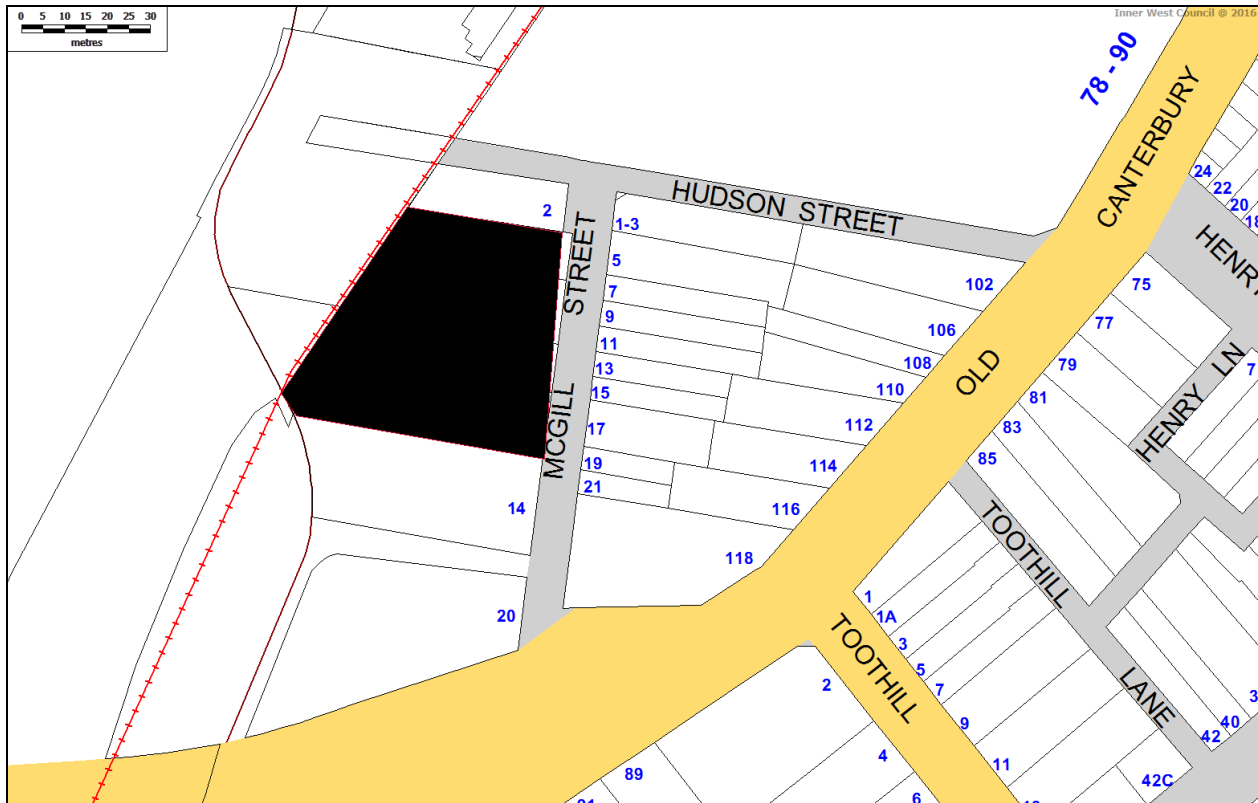
The proposal generally complies with the aims, objectives and design parameters contained in State Environmental Planning Policies (SEPPs), Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011). The development has a variation of 352sqm (5.77%) from the floor space ratio (FSR) development standard contained within MLEP 2011. The written submission under Clause 4.6 of MLEP 2011 in relation to the FSR departure that accompanied the application is considered to be well founded and worthy of support.

The potential impacts to the surrounding environment have been considered as part of the assessment process. The application has been amended to address comments raised by Council Officers and Council's Architectural Excellence Panel. Any potential impacts from the amended development are considered to be acceptable given the context of the site and the desired future character of the precinct.

The application is suitable for approval subject to the imposition of appropriate conditions.

**PART A - PARTICULARS**

**Location:** Western side of McGill Street, between Old Canterbury Road and Hudson Street, Lewisham.



*Image 1: Location Map*

**DA No:** 201500682

**Application Date:** 2 December 2015. Additional information submitted on 2 December 2015, 25 January 2015, 22 April 2016, 26 April 2016, 5 May 2016, 9 June 2016, 3 July 2016 and 8 July 2016.

**Proposal:** To demolish existing improvements and construct a mixed use development consisting of a 6 storey building (Building A) fronting McGill Street and a 5 storey building (Building B) fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy within Building B for use as art education and café space with 2 basement car parking levels and associated landscape works.

**Applicant:** Tony Owen Partners

**Estimated Cost:** \$20,749,265

**Zoning:** B4 Mixed Use

### **PART B - THE SITE AND ITS CONTEXT**

**Improvements:** 2 storey industrial buildings on 6-12 McGill Street and a single storey industrial building on 4 McGill Street.



*Image 2: The Site looking south from McGill Street*



*Image 3: The Site looking north from McGill Street*



*Image 4: Rear of the site looking south east from Lewisham West Light Rail station*

**Current Use:** Industrial uses

**Prior Determinations:** 4 McGill Street

Determination No 16023, dated 13 June 1995, granted consent to use the factory building for the purposes of a commercial laundry. This consent was modified on 26 July 2015.

6-10 McGill Street – No recent town planning history.

**Environment:** Currently industrial although the area is undergoing significant change and is transitioning to high density residential development.

### **PART C - REQUIREMENTS**

**1. Zoning**

*Is the proposal permissible under zoning provisions?*

Art Centre. Permissible on land zoned B4, prohibited on land zoned R4. See comments in body of report

**2. Development Standards (Statutory Requirements):**

| <b>Type</b>         | <b>Maximum</b> | <b>Proposed</b> |
|---------------------|----------------|-----------------|
| Height of Buildings | 29 metres      | 21.8 metres     |
| Floor Space Ratio   | 2.3:1          | 2.43:1          |

**3. Departures from Development Control Plan:**

| <b>Type</b>                    | <b>Required</b>                     | <b>Proposed</b> |
|--------------------------------|-------------------------------------|-----------------|
| Solar Access and Overshadowing | Discussed in the body of the report |                 |
| Parking                        | Discussed in the body of the report |                 |



**4. Community Consultation:**

Required: Yes (newspaper advertisement, on-site notice and resident notification)  
Submissions: 11 submissions

**5. Other Requirements:**

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);  
State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65);  
State Environmental Planning Policy (State and Regional Development 2011) (SEPP SRD);  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX);  
State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure);  
Marrickville Section 94/94A Contributions Plan 2014

**PART D - ASSESSMENT****1. The Site and Surrounds**

The site is located on the western side of McGill Street, between Hudson Street and Old Canterbury Road, Lewisham.

| Lot               | Legal Description  | Lot Area                    |
|-------------------|--------------------|-----------------------------|
| 4 McGill Street   | Lot 2 in DP 533963 | 436.8m <sup>2</sup>         |
| 6-8 McGill Street | Lot B in DP 161098 | 712.2m <sup>2</sup>         |
| 10 McGill Street  | Lot E in DP 419611 | 610.3m <sup>2</sup>         |
| 12 McGill Street  | Lot F in DP 101532 | 895.5m <sup>2</sup>         |
| <b>Total</b>      |                    | <b>2,654.8m<sup>2</sup></b> |

The site has a frontage to McGill Street of 52.28 metres and a depth ranging between 38.899 metres and 58.708 metres with a total site area of 2,654.8m<sup>2</sup>.

Currently occupying the site are 2 storey industrial buildings on 6-12 McGill Street and a single storey industrial building on 4 McGill Street. There are no tree-related constraints to the proposed development. The vegetation along the boundary of the property comprises listed noxious weed and exempt species.

The site is not located within a Heritage Conservation Area or listed as having any heritage significance. The character of the locality is transitioning from industrial to medium to high density residential and mixed uses. Currently under construction on the eastern side of McGill Street and at 14 McGill Street are medium to high density residential developments. An older industrial use remains at 2 McGill Street. The site is located approximately 45 metres to the east of Lewisham West Light Rail Station and 360 metres from Lewisham Railway Station. Hawthorne Canal is located at the rear of the site forming the boundary between the former Marrickville and Ashfield local government areas.

**2. Background**

On 4 April 2016, Council requested additional information to address concerns relating to:

- Overshadowing impacts on the proposed (now approved) high density development adjacent to the site at 14 McGill Street;
- Zoning/permissibility of the art education space;
- Calculation of gross floor area particularly with regard to exemptions of certain space;
- Environmental health, engineering and waste management referral comments; and
- Council's Architectural Excellence Panel (AEP) comments.

On 9 June 2016, the applicant submitted further amended plans to address the AEP's and Council Officer's comments. This assessment report is based on the amended plans submitted to Council on 9 June 2016. The final details provided by the applicant are considered to address Council's concerns in relation to the proposal.

### **3. The Proposal**

Approval is sought to demolish existing improvements and construct a mixed use development consisting of a 6 storey building (Building A) fronting McGill Street and a 5 storey building (Building B) fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy within Building B for use as art education and café space with 2 basement car parking levels and associated landscape works.

The development is proposed to comprise:

- 80 residential apartments;
- 1 commercial tenancy within Building B with a café and art education space;
- 2 level basement containing 84 car parking spaces and loading area;
- Separate podium level rooftop communal open spaces areas; and
- Through site link from the Greenway to McGill Street public shared zone along the rear boundary of the site.

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



*Image 5: Photomontage 1 (Aerial view facing south east)*



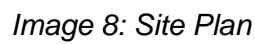


*Image 6: Photomontage 2 (Street view from McGill Street)*

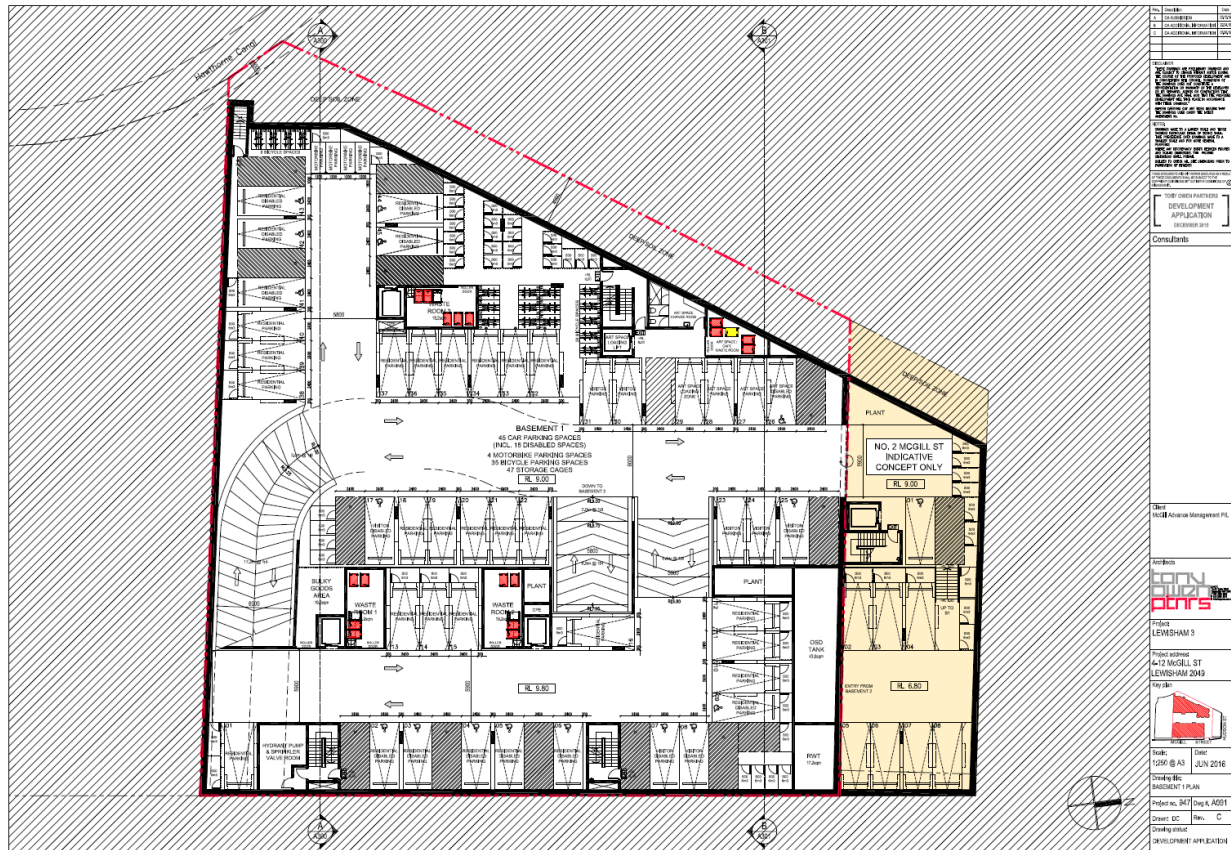


*Image 7: Photomontage 3 (Street view from Lewisham West Light Rail Station)*

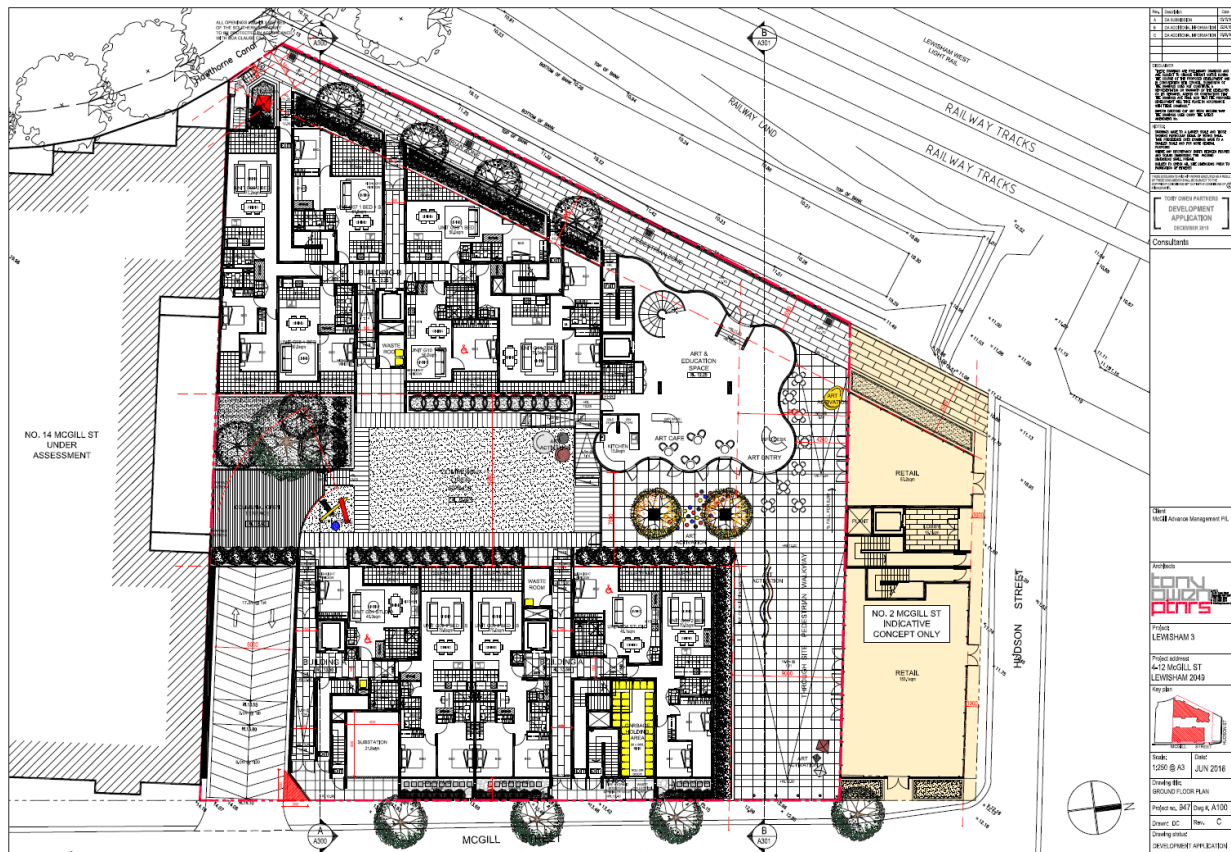








*Image 10: Basement 1 Floor Plan*



*Image 11: Ground Floor Plan*

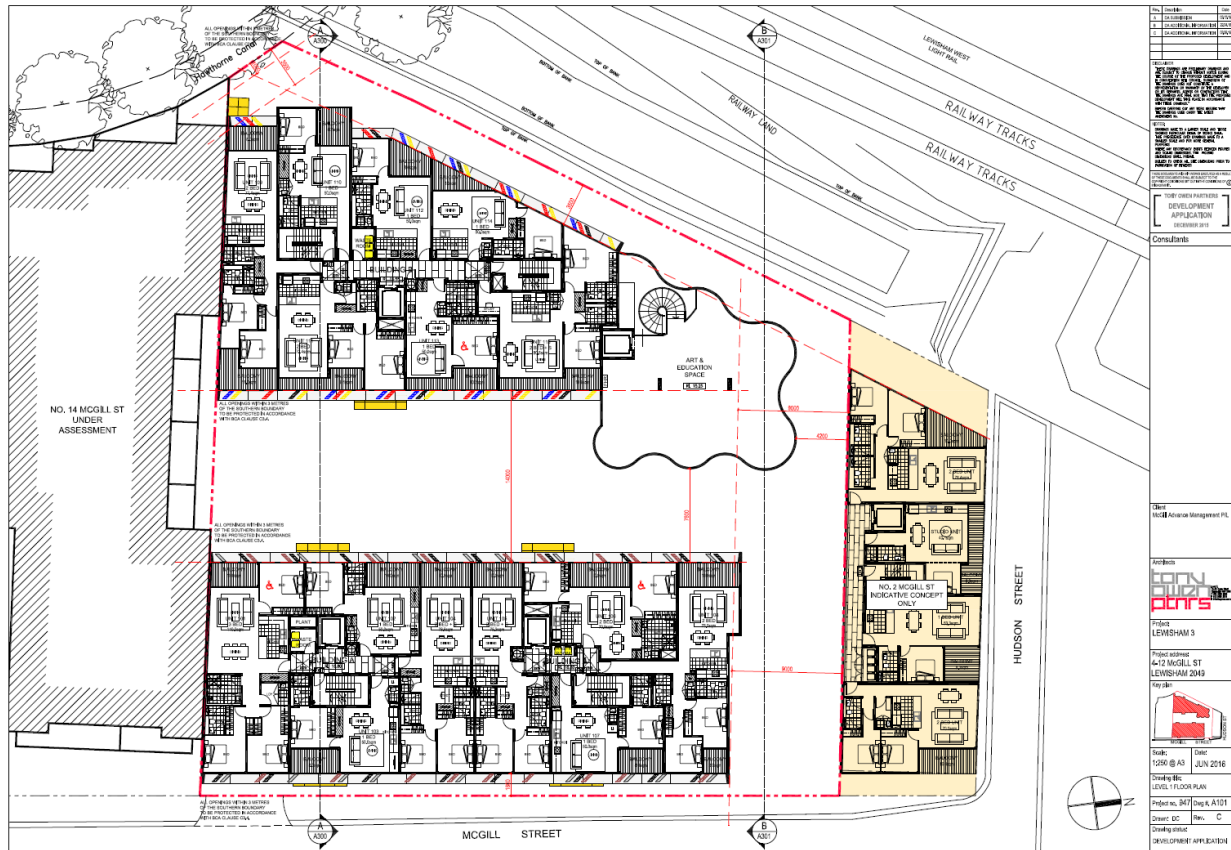


Image 12: Level 1 Floor Plan

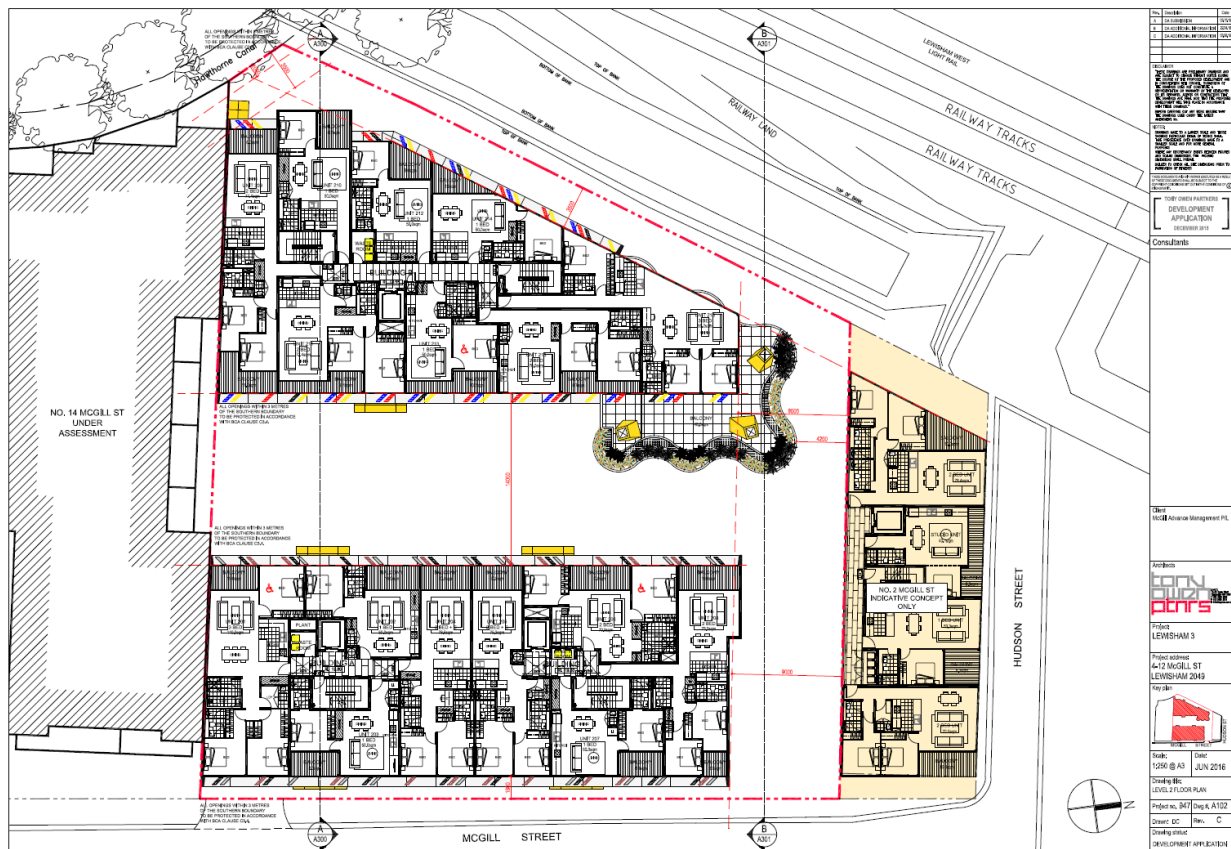
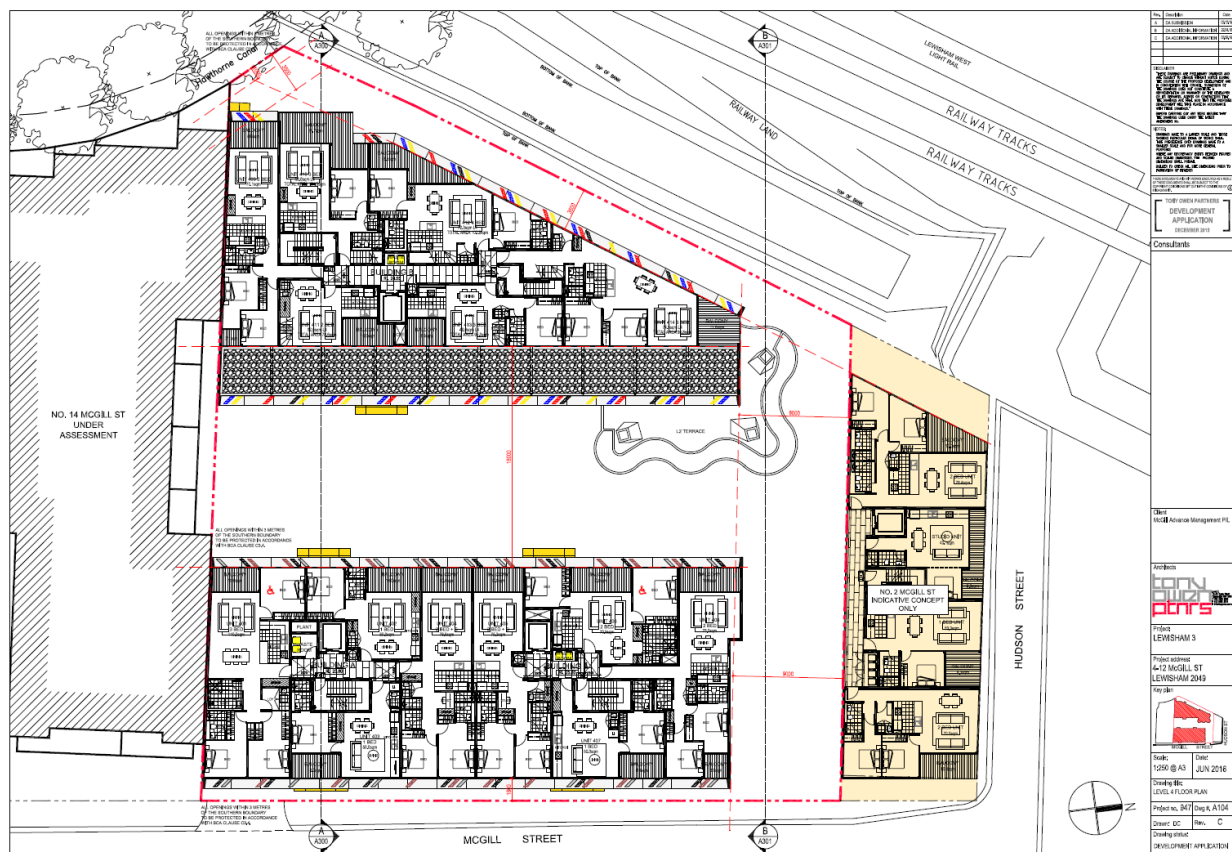
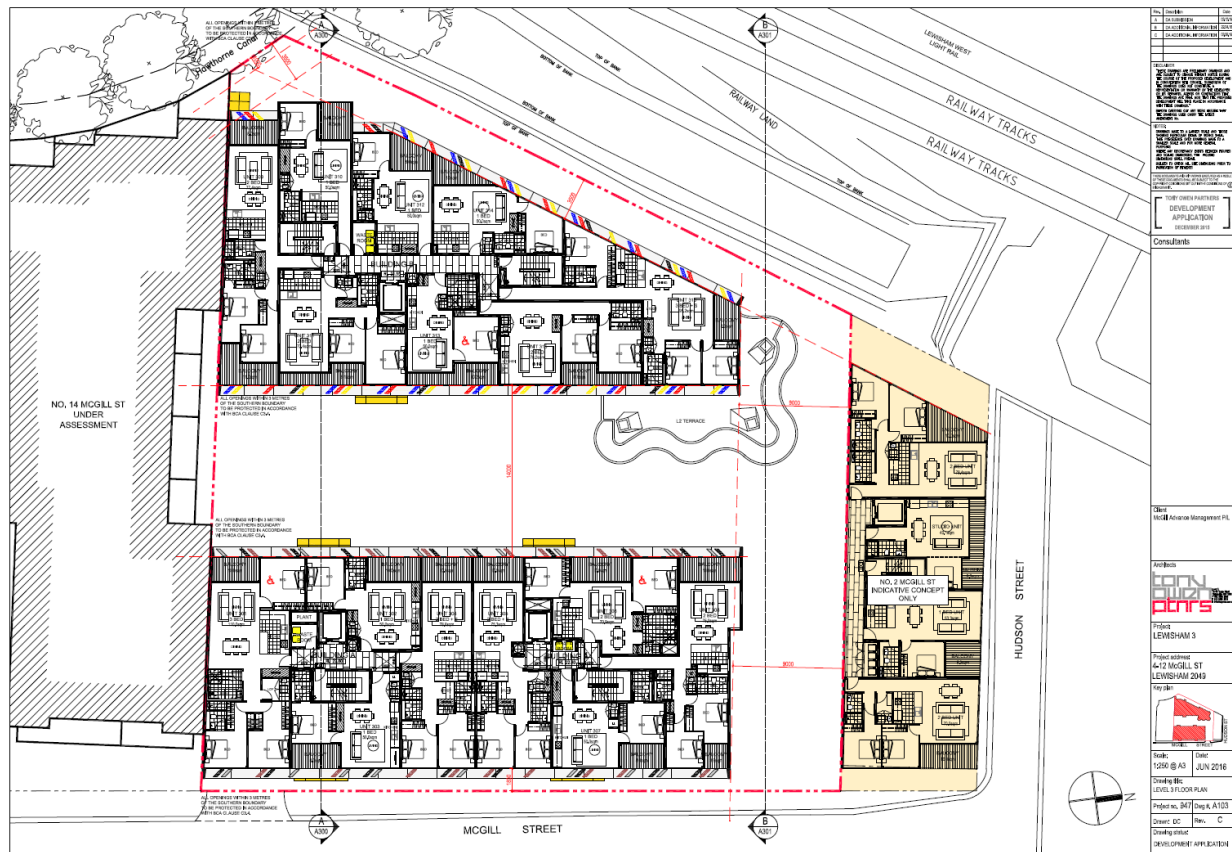
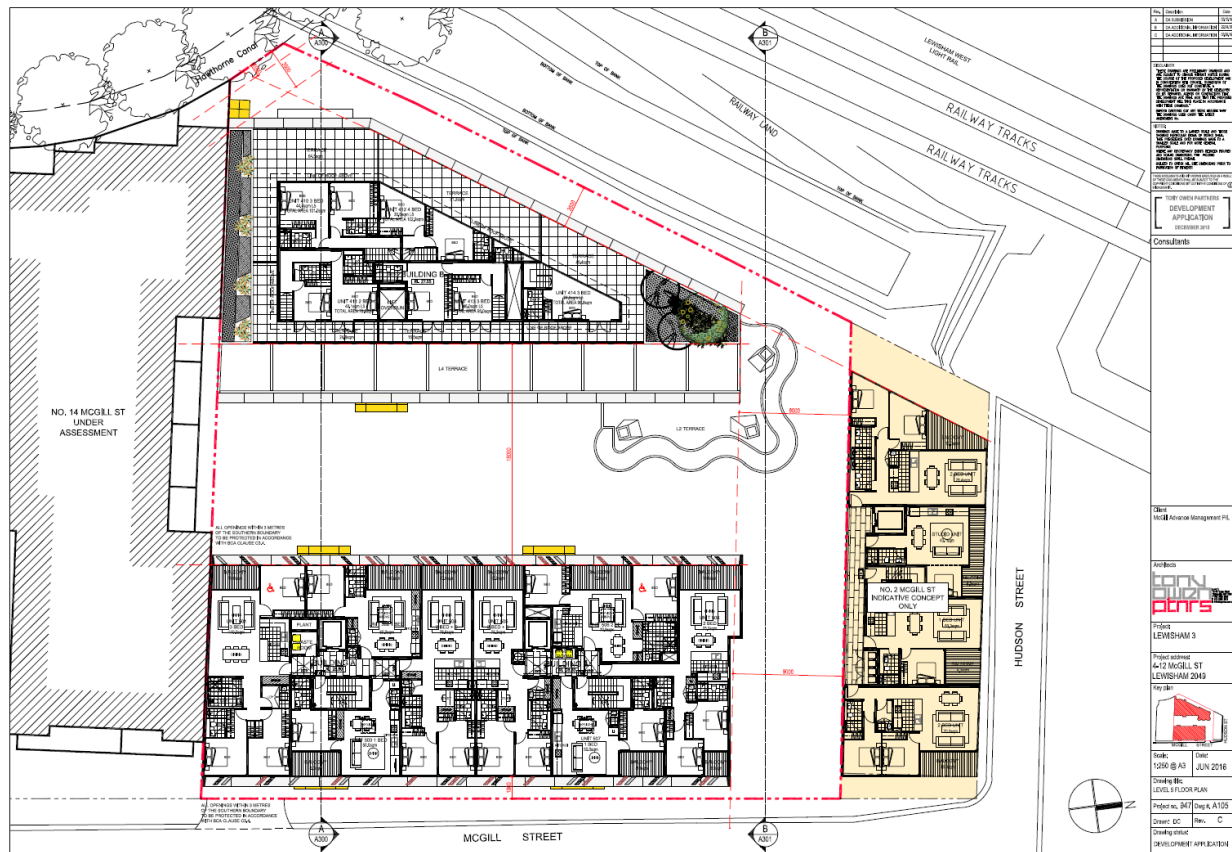


Image 13: Level 2 Floor Plan

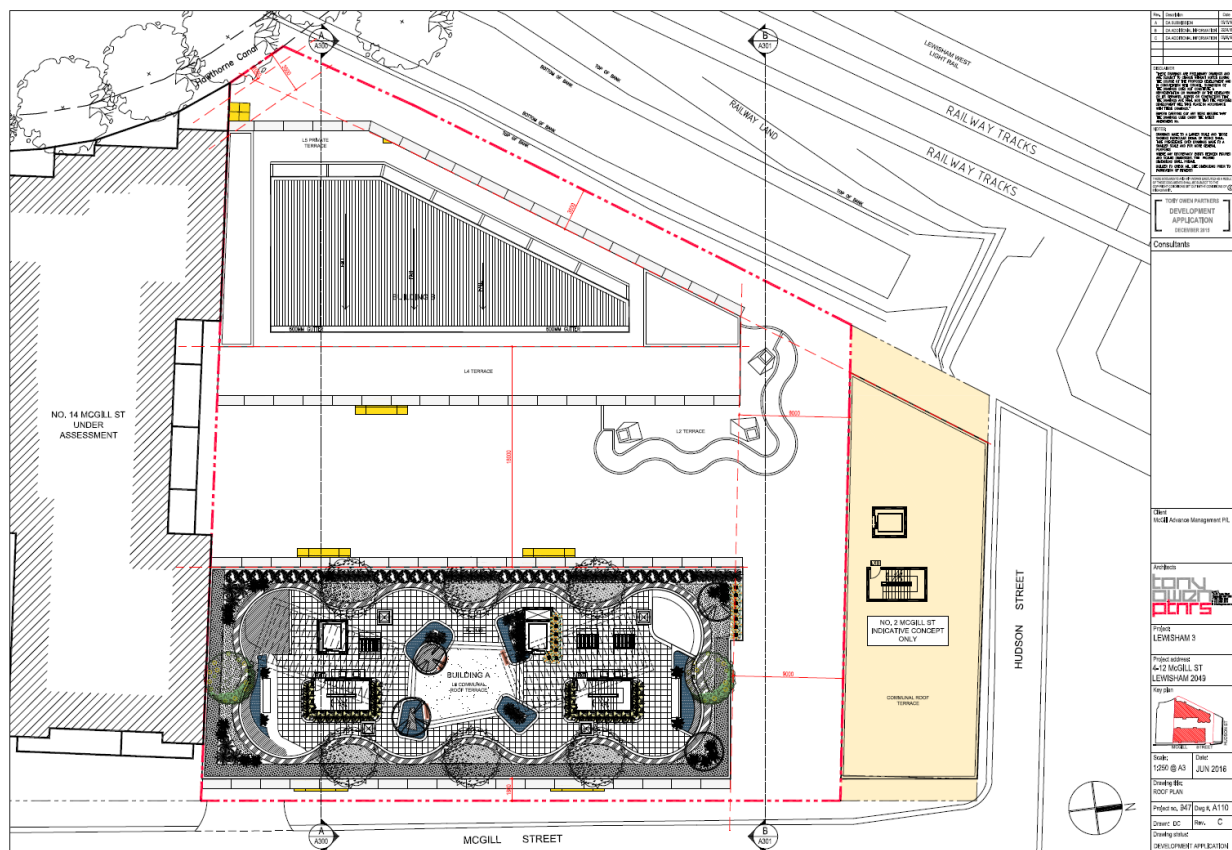








*Image 16: Level 5 Floor Plan*



*Image 17: Roof Plan*

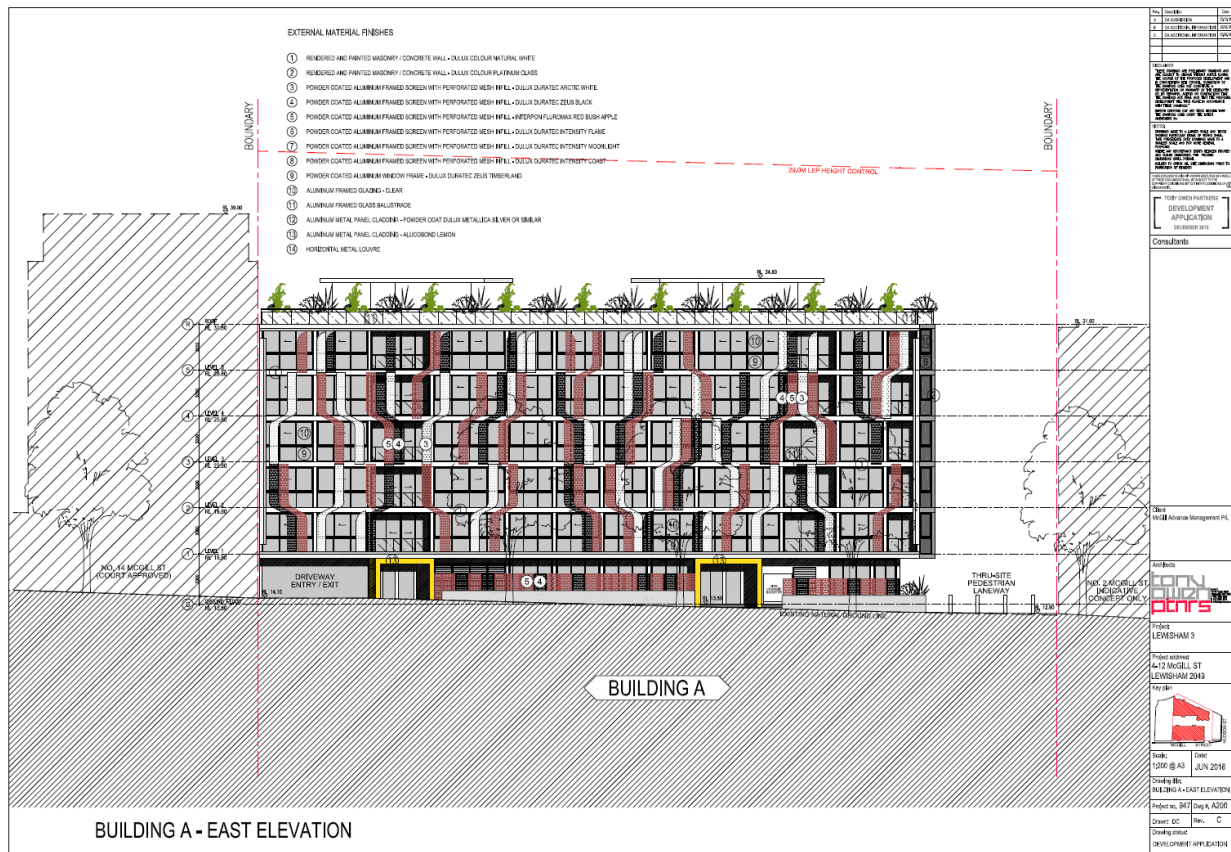
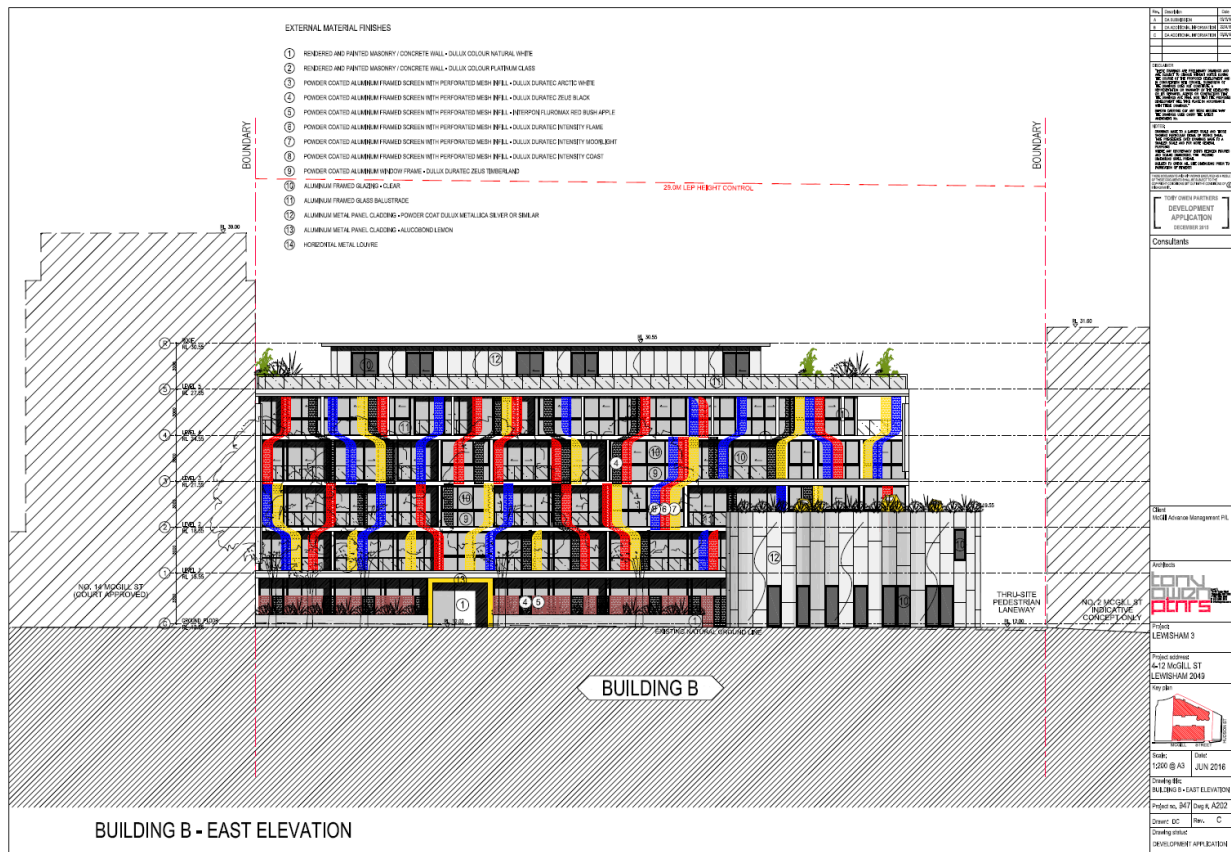


Image 18: Building A – East Elevation Plan

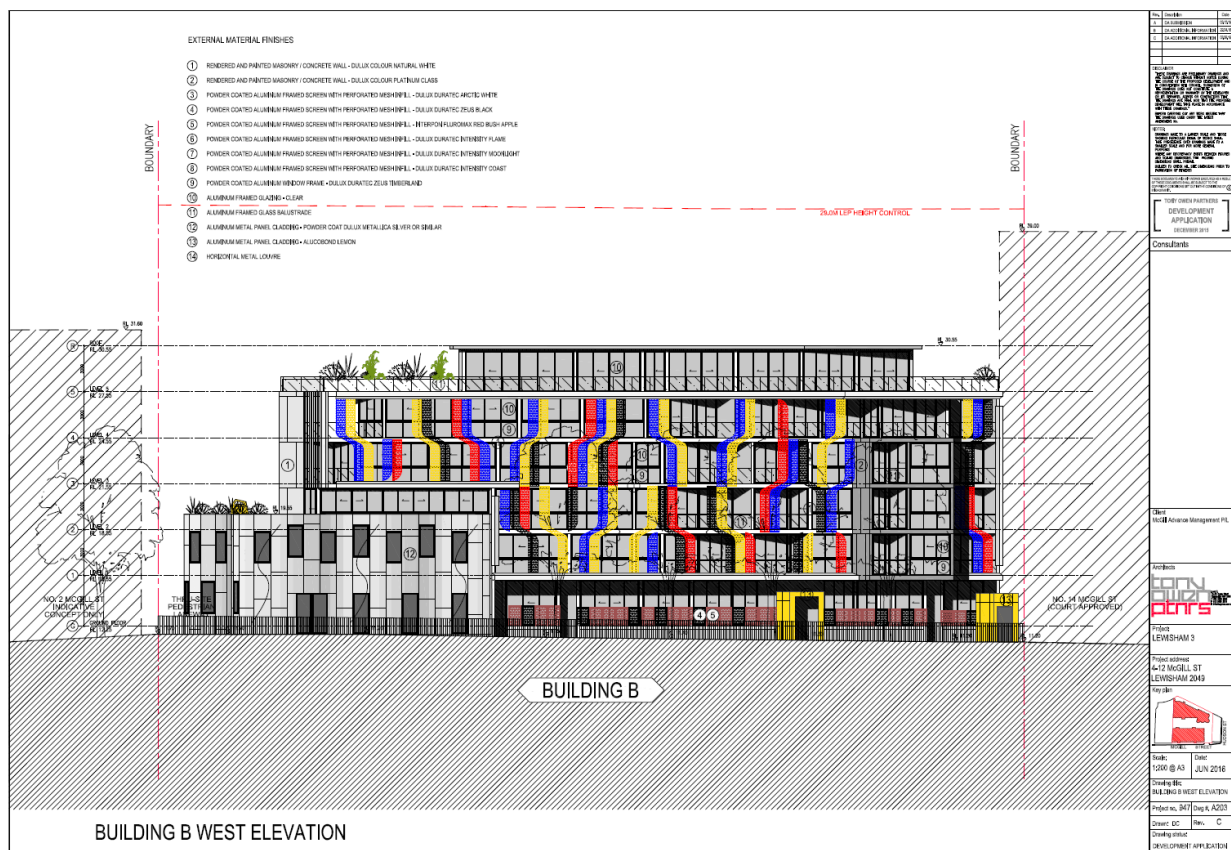


Image 19: Building A – West Elevation Plan



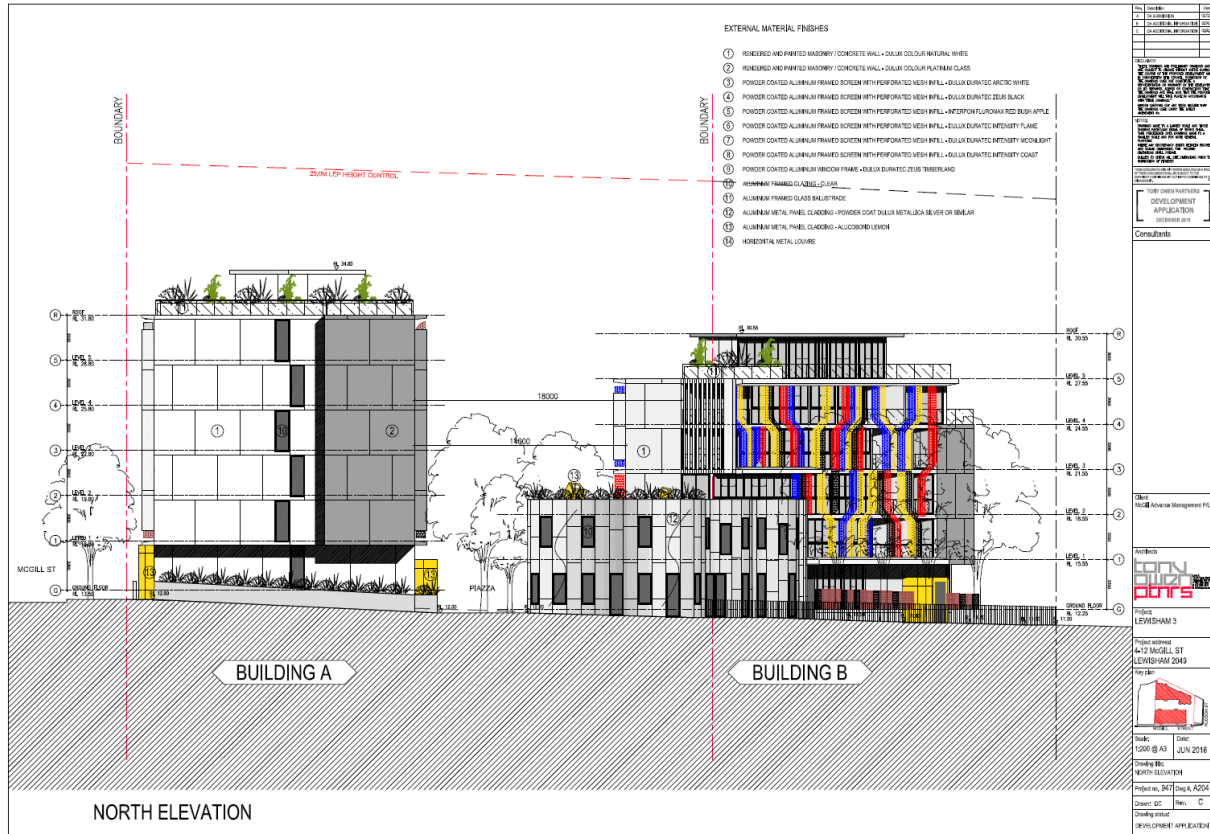


*Image 20: Building B – East Elevation Plan*

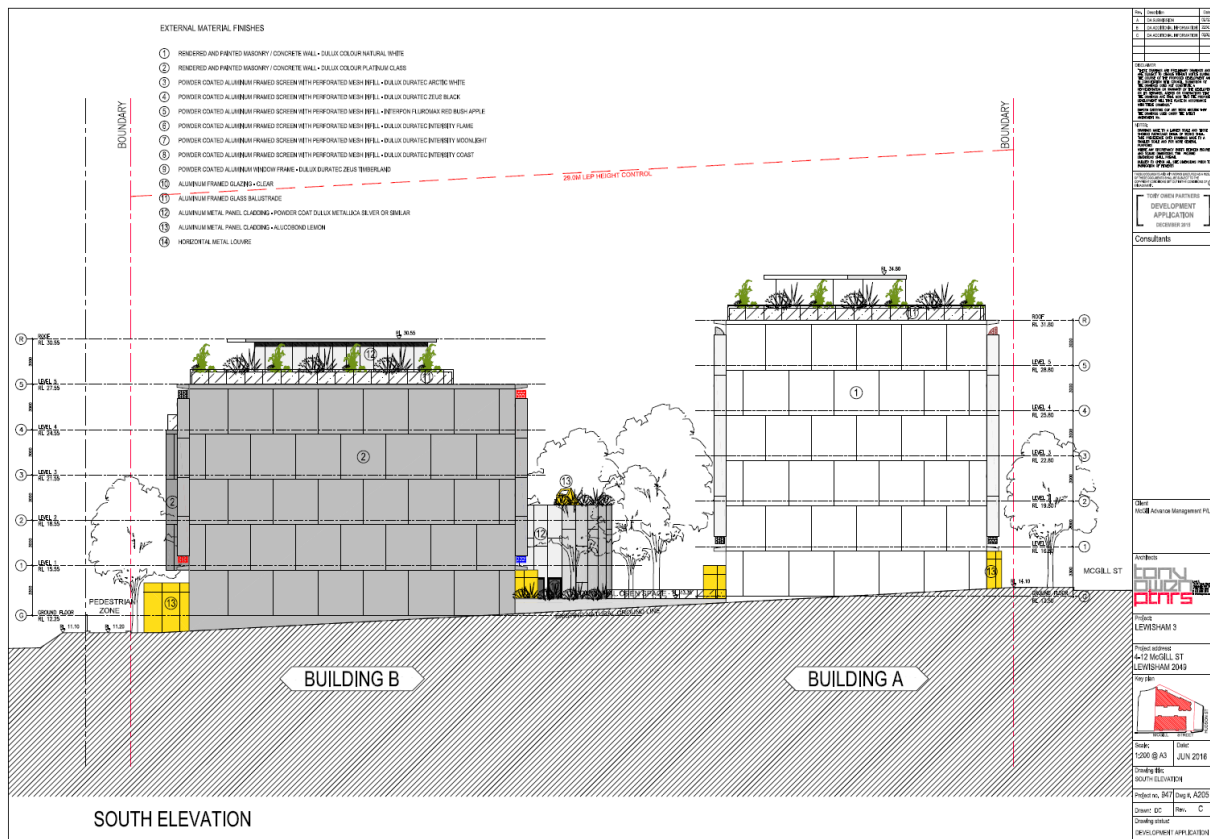


*Image 21: Building B – West Elevation Plan*

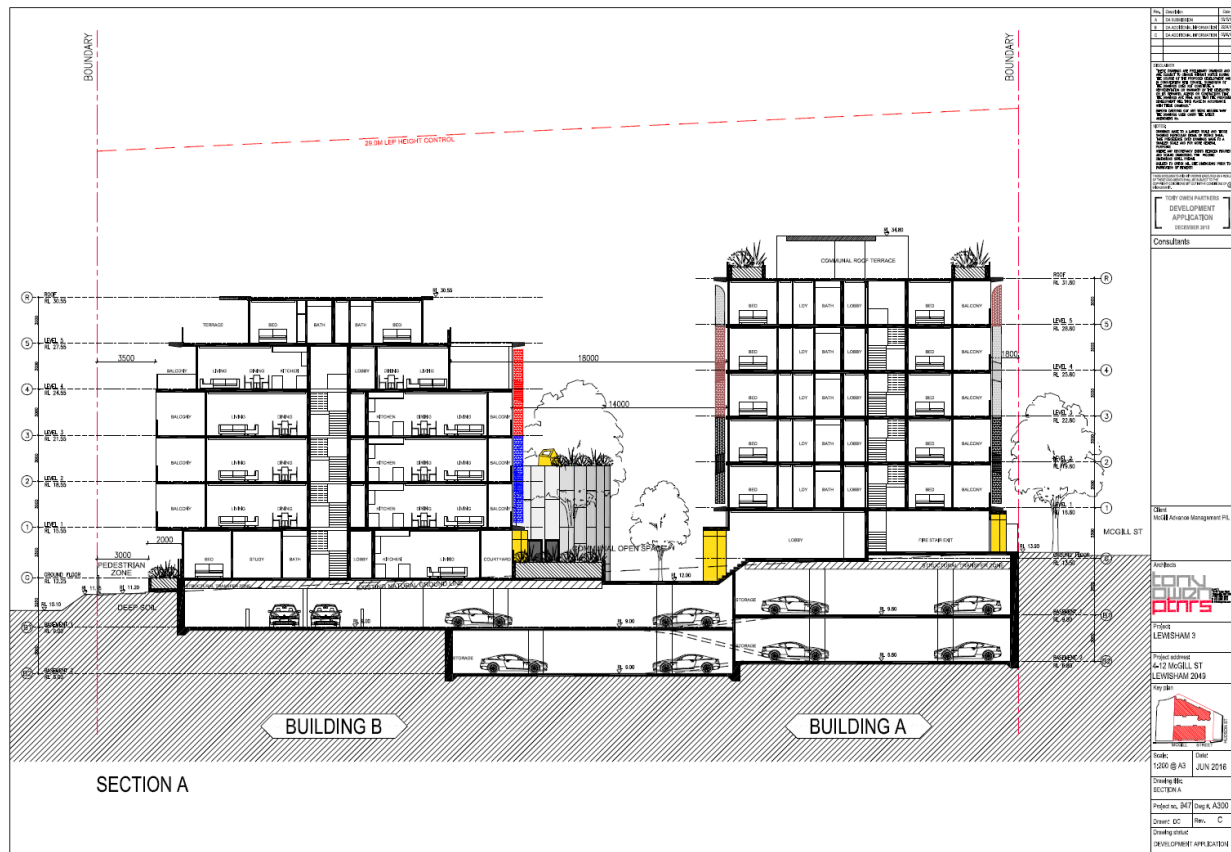




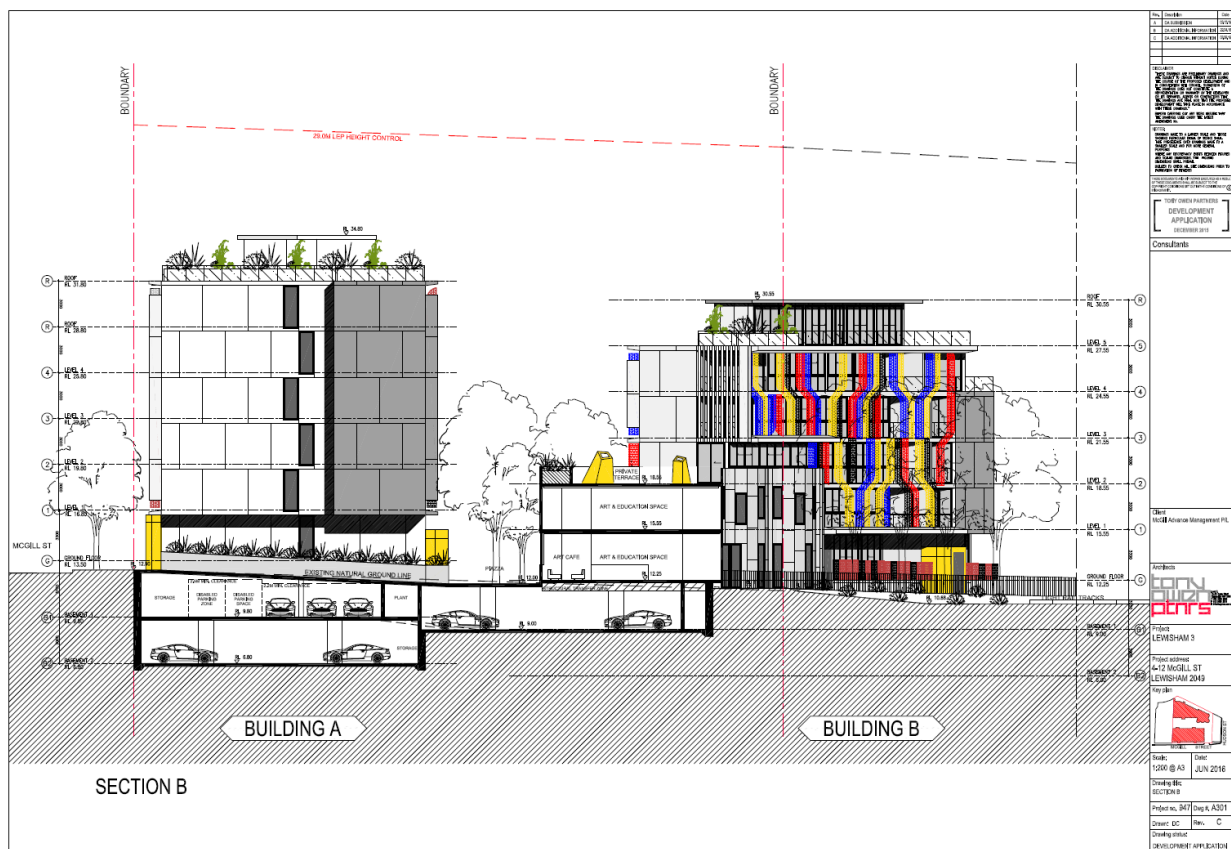
*Image 22: Building A-B – North Elevation Plan*



*Image 23: Building A-B – South*



*Image 24: Section A Plan*



*Image 25: Section B Plan*

#### **4. Architectural Excellence Panel**

The proposal was reviewed by Council's Architectural Excellence Panel (AEP) on 23 February 2015, who provided the following comments and requested additional information in relation to:

1. Site Amalgamation
2. Building Bulk and Site Planning
3. Site and Context Analysis
4. Art Gallery/Education Space
5. Architectural Expression
6. Interface between Public, Private and Semi-Public Spaces
7. Internal Layout
8. Solar Access Diagrams
9. Overshadowing

Following submission of amended plans by the applicant on 9 June 2016 the amended plans are generally supported by Council's AEP.

#### **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. Marrickville Development Control Plan 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 site has been used in the past for activities which could have potentially contaminated the site. A Preliminary Site Investigation was submitted with the original application. On the request of Council, the proponent was requested to undertake a Detailed Site Investigation and if necessary a Remedial Action Plan to address contamination issues prior to determination. These have since been provided, with the remedial activities to be undertaken after demolition of the existing buildings. The Detailed Site Investigation found the following issues of concern:

- Site history of high risk industrial activities including commercial laundries and printing. Laundries are currently operating at 4 and adjacent number 2 McGill Street;
- An empty underground storage tank was detected on the eastern boundary of the site;
- Soil sampling was undertaken at seven boreholes at accessible locations across the site to 1.5 metres below ground level (excluding 4 McGill Street due to access limitations). This is two less than the minimum number of samples required for the 2,460m<sup>2</sup> site. As such it is proposed that two more boreholes are sampled at 4 McGill Street once access is allowed;
- One groundwater monitoring well was installed to a depth of 4.5 metres below ground level and found to be dry. Three groundwater monitoring bores are required to be installed to complete the groundwater assessment;
- Additional soil investigation for any deep soil planting;
- Heavy metals, TRH/BTEX, pesticides and asbestos were found to be below the adopted human health based investigation criteria, however hotspot contamination of PAH was identified at BH2 and BH7 that exceeded adopted ecological and health based criteria. Petroleum hydrocarbons were identified in a fill layer at BH7 exceeding the adopted ecological screening level; and



- A Hazardous Materials (HAZMAT) survey was a recommendation of the Preliminary Site Investigation however this has not been provided. A HAZMAT survey and any associated management plans should be provided prior to the issue of a Construction Certificate.

Given the above, it is considered that the site will require remediation in accordance with SEPP 55. A Remedial Action Plan (RAP) has been prepared to ensure that management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils. Council's Environmental Services Section has reviewed the contamination documents and is generally satisfied that the site can be made suitable for residential use after the completion of the Remedial Action Plan. To ensure that the additional works are undertaken, it is recommended that conditions are included in the recommendation.

Recommended conditions related to contamination and application of Clause 7 of SEPP 55 for the proposal.

#### **6. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (Amendment No. 3)**

The development is subject to the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). SEPP 65 prescribes 9 design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The 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 aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

In accordance with Clause 30 of the SEPP if the development satisfies the following design criteria, the consent authority must not refuse the application on the following matters:

- if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the ADG,
- if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the ADG,
- if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the ADG.

The development is generally acceptable having regard to the 9 design quality principles.

#### Apartment Design Guide

The ADG contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP the requirements contained within MDCP 2011 in relation to visual privacy, solar and daylight access, common circulation and spaces, apartment sizes and layout, ceiling heights, private open space and balconies, natural ventilation and storage have no effect. In this regard objectives design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The development has been assessed against the relevant design criteria within Part 3 and 4 of the ADG as follows:

#### Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

At the centre of the site is a large open space area measuring approximately 380sqm and a roof top terrace measuring 325sqm on Building A. The communal open space is approximately 26% of the total site area. Due to the height of the buildings the central space will largely be in shadow in winter. However, 100% of the roof top communal open space above Building A will receive uninterrupted solar access during summer and winter. As a result, the total communal open space achieves at least 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

### Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

| Site Area   | Minimum Dimensions | Deep Soil Zone<br>(% of site area) |
|---|--------------------|------------------------------------|
| Less than 650m <sup>2</sup>   | -                  | 7%                                 |
| 650m <sup>2</sup> - 1,500m <sup>2</sup>                               | 3m                 |                                    |
| Greater than 1,500m <sup>2</sup>                                      | 6m                 |                                    |
| Greater than 1,500m <sup>2</sup> with significant existing tree cover | 6m                 |                                    |

The deep soil area is proposed to be 60sqm and will be located at the centre of the site, adjacent to the communal open space. This is less than the required 185sqm (7% of the total site area) however the non-compliance is considered to be acceptable as the applicant proposes to plant 8 street trees in the public domain in accordance with Council's Street Tree Masterplan which is considered to be a sufficient measure to meet the objectives of the deep soil zone (i.e. the provide opportunity for tree planting).

Given the above, the development is considered to be acceptable with regard to the provision of a deep soil zone.

### Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

| Building Height               | Habitable rooms and balconies | Non-habitable rooms |
|-------------------------------|-------------------------------|---------------------|
| Up to 12 metres (4 storeys)   | 6 metres                      | 3 metres            |
| Up to 25 metres (5-8 storeys) | 9 metres                      | 4.5 metres          |
| Over 25 metres (9+ storeys)   | 12 metres                     | 6 metres            |

The ADG prescribes the following minimum required separation distances from buildings within the same site:

*Up to four storeys/12 metres*



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

*Five to eight storeys/up to 25 metres*

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

Both Building A and Building B are proposed to be 6 storeys in height. The internal courtyard maintains a minimum setback between Building A and Building B of 14 metres. This separation is extended to 18 metres on the upper most floor. These internal setbacks comply with the numerical separation requirements under the ADG and the development is considered to provide adequate separation between the buildings for privacy and solar access. The development is oriented east-west with 75% of the total units receiving adequate solar access as required under SEPP 65. This is confirmed by the submitted solar analysis which is able to demonstrate that the apartments on the lowest level of Building A and B (Level 1) receive at least 2 hours of solar access during the winter solstice. The matter of solar access and privacy are discussed further in Section 10 of this report.

Building separation from the existing residential flat building at 14 McGill Street is also required to be 18 metres under the RFDC. The design proposes a 3 metre separation distance between the residential flat building and the proposed development. Despite not complying with the ADG separation requirements, the overall massing and building separation of this development is one that was envisaged in the master planning of the McGill Street precinct under the Part 9.45 of MDCP 2011 as the entire site was required to be amalgamated into a single lot (which included 14 McGill Street). Any requirement for a greater building separation on the subject site is considered to be onerous, given the existing context and its existing separation non-compliances from the court approved development at 14 McGill Street.

The proposed building separation is considered to provide sufficient visual and acoustic privacy with the applicant proposing full length privacy screening and deep soil planting for privacy on the southern side interface of the site. Given that the existing adjoining development to the south (14 McGill Street) was approved in its current form prior to this application the separation is considered to be acceptable in this instance. The proposed separation remains sufficient to provide acceptable visual and acoustic privacy for existing and new residents, with sufficient provision of open space and deep soil zones for stormwater management and tree planting.

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

#### Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

The development proposes 60 units (75%) which receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter which is greater than the ADG minimum rate of 70% of apartments in the building and is considered satisfactory affording good amenity for future occupants.

### Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

The development proposes 50 units (62.5%) which are naturally cross ventilated which comply with the ADG minimum standards for natural ventilation.

The ADG requires a maximum internal building depth should be 18 metres. Habitable room depths are limited to a maximum of 2.5x the ceiling height. In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window. The minimum width of cross-over or cross-through apartments is 4 metres.

The maximum depth of the units is 16 metres in Building A. All apartments have a minimum width of at least 4 metres. The majority of the units have a maximum depth of 8 metres which complies with the ADG natural ventilation requirements.

### Ceiling Heights

Under the ADG, the suggested floor to floor heights for residential flat buildings are 3.3 metres for the ground and first floors containing residential habitable rooms, 2.7 metres for the remaining residential levels above.

The proposal includes a 3.3 metre floor to ceiling height for the ground floor and minimum 2.7 metre floor to ceiling heights for the levels above which complies with the minimum requirements.

### Apartment Size

The ADG prescribes the following minimum apartment sizes:

| Apartment Type       | Minimum Internal Area |
|----------------------|-----------------------|
| Studio apartments    | 35m <sup>2</sup>      |
| 1 Bedroom apartments | 50m <sup>2</sup>      |
| 2 Bedroom apartments | 70m <sup>2</sup>      |
| 3 Bedroom apartments | 90m <sup>2</sup>      |

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.

An assessment of the apartment sizes within the proposed development indicates that all apartments proposed comply with the minimum sizes prescribed by the ADG and in some cases some units are larger than the prescribed minimum internal area which is supported, ensuring adequate amenity is maintained for future occupants. Given the above, no issue is raised regarding the size of the apartments within the development.

### Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:



- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
  - 3.6 metres for studio and 1 bedroom apartments.
  - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

All units comply with the minimum layout requirements of the ADG. All units have open plan layouts and the master bedrooms and other bedrooms are of an appropriate and compliant size. The application is therefore considered satisfactory having regard to apartment layouts.

#### Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

| Dwelling Type         | Minimum Area     | Minimum Depth |
|-----------------------|------------------|---------------|
| Studio apartments     | 4m <sup>2</sup>  | -             |
| 1 Bedroom apartments  | 8m <sup>2</sup>  | 2 metres      |
| 2 Bedroom apartments  | 10m <sup>2</sup> | 2 metres      |
| 3+ Bedroom apartments | 12m <sup>2</sup> | 2.4 metres    |

Each primary balcony complies with the minimum ADG requirements with some dwellings encompassing a smaller secondary balcony. The open space arrangements are acceptable given that the proposal complies with the ADG requirements above.

#### Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

The maximum number of apartments proposed off a circulation core on a single level is 8 which is acceptable in this regard.

#### Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

| Apartment Type        | Minimum Internal Area |
|-----------------------|-----------------------|
| Studio apartments     | 4m <sup>3</sup>       |
| 1 Bedroom apartments  | 6m <sup>3</sup>       |
| 2 Bedroom apartments  | 8m <sup>3</sup>       |
| 3+ Bedroom apartments | 10m <sup>3</sup>      |

Note: At least 50% of the required storage is to be located within the apartment.

All apartments have been provided with sufficient storage excluding kitchens and bedrooms which complies with the prescribed ADG requirements.

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

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

## **8. State Environmental Planning Policy (Infrastructure) 2007**

### *Clause 85-87*

Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) provide guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the Infrastructure 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. In this regard those measures are to ensure that the following LAeq levels are not exceeded:

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

An acoustic report accompanied the application and assessed the potential acoustic impacts of rail noise on the proposed development. The report contains recommendations to be incorporated into the proposed development in order to mitigate acoustic impacts and should be referenced as an approved document in condition 1 on any consent granted for the proposal.

The application was referred to Sydney Trains for concurrence in accordance with Clause 86 of the Infrastructure SEPP. Sydney Trains granted concurrence to the development subject to conditions on 8 February 2016. Those conditions have been included in the recommendation of this report.

### *Traffic-generating development (Clause 104)*

In accordance with Clause 104 SEPP (Infrastructure), ‘residential flat buildings’ with 75 or more dwellings with access to classified road are classified as traffic generating development. Accordingly, the application was referred to RMS for consideration.

On 18 January 2016, RMS advised that it raises no objection to the proposal in relation to Clause 104 of the Infrastructure SEPP.

## **9. Marrickville Local Environmental Plan 2011**

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

The property is zoned B4 - Mixed Use (4 McGill Street) and R4 - High Density Residential (8-12 McGill Street) under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011).



Shop top housing is permissible with Council's consent under the B4 zoning provisions applying to the land.

The proposal accommodates a ground floor "café" use within the B4 zoning which is permissible under the group term of "commercial premises". In addition, within the B4 zone is the art education centre which is characterised as an "information and education facility". Located above these uses are permissible "shop top housing", with the balance of units permissible by virtue of a "residential flat building" in the R4 zone. However, part of the "information and education facility" is located in the R4 zone which is a use that is prohibited within the zone. This is discussed in more detail in Clause 5.3- Development Near Zone Boundaries.

(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 property under MLEP 2011. The development has a maximum building height of 21.8 metres which complies with the height development standard.

(iv) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 2.3:1 applies to the land under MLEP 2011.

The development has a gross floor area (GFA) of 6,459sqm which equates to a FSR of 2.43:1 on the 2,654.8m<sup>2</sup> site which does not comply with the FSR development standard by 352sqm (5.77%).

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

(v) Exceptions to Development Standards (Clause 4.6)

As detailed earlier in this report, the development exceeds the maximum floor space ratio development standard prescribed under Clause 4.4 of MLEP 2011. A written request in relation to the contravention to the floor space ratio development standard in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011 was submitted with the application.

The applicant considers that there are sufficient environmental planning grounds to justify contravening the prescribed development standard. They are as follows:

- The development will not result in any significant adverse impacts in terms of visual impact, overshadowing, acoustic or visual privacy or any other built form-related impacts, and that a compliant scheme would force the reduction in size of the non-residential floor space component, which could potentially limit the amount of public benefit that could be realised as a result of the proposal.
- The proposed FSR variation will not result in a building form that is out of character with the existing/future surrounding area, especially given the surrounding existing and proposed 8 to 11 storey built form in the McGill precinct and does not result in any non-compliance with other development standards.
- Full compliance with the development standard will neither be readily apparent nor deliver any material public benefit or improved amenity outcome. It would drive reduction in floor

space to support the day to day needs of residents, which is against the objectives of the site's zoning.

- The development will provide a number of significant benefits to the local and future community in terms of more housing and greater accommodation choice by delivering a variety of new dwelling options.
- By appropriately integrating the additional floor space into the lower levels of Building B, the proposal ensures a sense of openness between the two buildings on the site and facilitates sunlight, open space and amenity for occupants of the buildings and users of the publically accessible spaces.
- A number of design measures are incorporated into the building design that together help minimise the building mass and bulk of the art and education facility, and ensure the achievement of a high quality and unique design outcome. These include curved façade, variable window locations and a visually interesting colour scheme.
- The development's traffic and parking impacts are acceptable and in line with Council's expectations under the DCP.

The justification provided in the applicant's written submission is considered to be well founded and worthy of support.

As demonstrated in the assessment provided in this report, the additional GFA does not result in any adverse amenity impacts of adjoining properties and the architectural form proposed responds appropriately to surrounding development.

The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss. The site design has 75% (60) of dwellings that receive a minimum of 2 hours of solar access to the internal and external living areas between 9.00am and 3.00pm on June 21<sup>st</sup>.

It is noted that a significant FSR non-compliance has been granted by the Land and Environmental Court on the adjoining site at 14 McGill Street (84% variation), and Council has accepted FSR variations on other sites within the McGill Street precinct which are greater than the non-compliance proposed in this application.

It is considered that there are sufficient environmental planning grounds as to why the FSR development standard should be varied in this particular circumstance based on the outcomes of planning law precedents such as those contained in *Wehbe v Pittwater Council* [2007] NSWLEC827, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC90 and *Moskovich v Waverley Council* [2016]. It is therefore assessed that strict compliance with the FSR development standard should not be enforced in this case.

The 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 this development standard for this site/proposal. The justification provided above is considered well founded and worthy of support.

(vi) Development Near Zone Boundaries (Clause 5.3)

The site has a split zoning of B4 Mixed Use applicable to 4 McGill Street and R4 High Density Residential applicable to 6-12 McGill Street. Part of the "information and education facility" which is permissible in the B4 Mixed Use zone is located in the R4 zone which is a use that is prohibited within that zone.

Clause 5.3 provides a zone of flexibility within 25 metres of the zone. The "information and education facility" components of the development are proposed to be located within 25 metres of the B4 Mixed Use in accordance with Clause 5.3(2).



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

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

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

- The use of Clause 5.3 is appropriate in this instance as the boundary of the B4 Mixed Use Zone dissects the application site and roughly cuts through the centre of the proposed 'information and education facility';
- Council's application of Clause 5.3 in this instance is appropriate as it will provide the necessary flexibility to enable the logical and orderly redevelopment of the site in a manner that is compatible with its intended future use;
- The extent of the proposed 'information and education facility' is wholly contained within 25 metres of the boundary between the B4 Mixed Use Zone and the R4 High Density Residential Zone; and
- The proposal will provide an outcome that is compatible with the surrounding area, that is capable of being supported by existing infrastructure, and will support the efficient and timely development of the land.

It is considered that the proposal is consistent with the objectives of the R4 High Density Residential Zone given that:

- It does not compromise the ability of the R4 zoned part of the site to deliver a variety of housing that responds to the needs of the community;
- It enables the inclusion of other land uses such as a café and cultural facility that will add to the vibrancy of the area and respond to the needs of the residents and wider community; and
- It will support the creation of a publicly accessible space that will improve permeability, accessibility and connectivity within the area.

It is considered that the proposal is consistent with the objectives of the B4 Mixed Use zone given that the proposed use is permissible in the zone, is a compatible land use in this context and maximises public transport patronage given its location near the light rail station.

It is considered that the applicant has demonstrated that it is able to meet the objectives of both the R4 High Density Residential Zone and the B4 Mixed Use zone. The use of the ground floor as an 'information and education facility' provides a natural transition between active uses on the ground floor and residential zones above. The development has demonstrated compatible land use planning and it is considered to be appropriate to utilise the provisions contained within Clause 5.3 of MLEP 2011.

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

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

The application was referred to Council's Tree Management Officer who advised the following;

*"The subject site incorporates several properties bearing factories. There are no trees or vegetation along the McGill Street frontage; the existing buildings are contiguous with buildings on either end precluding the presence of any trees; and there is some vegetation behind the southern-most factory (no. 12). The vegetation appears to comprise mainly if not exclusively of weed species. It also appears that the factories extend to the property*

*boundaries in the vicinity of the vegetation. Consequently there are no trees on the subject properties.....*

*It was not possible to neither access the area where the vegetation is nor determine how close to the property boundaries it may be. It is recommended that the applicant is requested to provide details of any trees or shrubs that are within 5 metres of the boundaries and how it is proposed they are managed. Removal of trees on the neighbouring property will require owner's consent and the removal of any prescribed trees will require consent from council. Any tree that is retained within 5 metres of the boundary will require a tree protection specification to ensure the impact by the development is appropriately managed."*

Having regard to the above, there are no trees on the property covered by and protected under Marrickville Development Control Plan 2011, however trees in the vicinity of the site need to be considered during the construction of the proposed development and conditions in accordance with Council's Tree Management Officer's requirements are included in the recommendation of this report.

(viii) Earthworks (Clause 6.2)

Clause 6.2 of MLEP 2011 requires the consent authority to have regard to certain matters where earthworks that require development consent are proposed. The applicant has submitted a Preliminary Geotechnical Investigation Report which addresses excavation.

The development includes excavation for 2 basement levels, which subject to conditions included in the recommendation, is unlikely to have a detrimental impact on environmental functions or processes, neighbouring sites, cultural or heritage items or features of the surrounding land.

(ix) Flood Planning (Clause 6.3)

The site is identified as land that is shown as "Flood planning area" on the MLEP 2011 Flood Planning Area Map. The application was referred to Council's Development Engineer who provided the following comments:

*"The site is subject to flooding during a 1 in 100 year storm event (as determined by the Hawthorne Canal Flood Study). The applicant has submitted a Flood Impact Assessment prepared by SGC Consultants Pty Ltd (dated 14 April 2016). The Flood Assessment recommends minimum floor levels and protection to the underground carpark be set at a height of RL 12.25m AHD providing 500mm freeboard. The plans reflect the recommendations of Flood Impact Assessment and therefore the proposal is acceptable in terms of flood protection."*

The proposal is considered satisfactory having regard to the provisions of Clause 6.3 of MLEP 2011.

(x) Terrestrial Biodiversity (Clause 6.4)

The land is identified as "Biodiversity" on the MLEP 2011 Natural Resource - Biodiversity Map.

The site is located in the Bandicoot Protection Area and Wildlife Corridor 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 subject property has a site area which is greater than 450sqm. It is considered that the proposed development would not result in any work that will reduce the existing pervious area of the site by more than 25% as the entire site is currently impervious.

Pursuant to the requirements under Section 5A of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000, an Assessment of Significance and seven part test was submitted for the proposal which concludes that the proposed development is unlikely to result in any significant impacts on threatened species, populations or ecological communities, or their habitats.

The McGill Street Planning Precinct envisages development with site coverage generally consistent with that being proposed under this application.

The application was reviewed by Council's Biodiversity Coordinator who provided the following comments:

- *Ecologist report – appears to be adequate as it considers the impacts to the Long Nose Bandicoot (LNB) population; and*
- *The recommendations contained within the report should be included on any consent given.*

Given the above, the current application is acceptable having regard to the relevant objectives and provisions of Part 2.13 of MDCP 2011 and a condition is included in the recommendation of this report that requires construction to be carried out in accordance with the recommendations prescribed by the Ecologist report to ensure terrestrial biodiversity is protected.

## **10. Marrickville Development Control Plan 2011**

### **PART 2 - GENERIC PROVISIONS**

#### **(i) Urban Design (Part 2.1)**

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

#### **(ii) Equity of Access and Mobility (Part 2.5)**

##### **Residential Component**

The development would require a minimum of 16 adaptable dwellings, 16 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 the requirements contained in Part 2.5 of MDCP 2011.

##### **Commercial Component**

A Statement of Consistency was submitted with the documentation submitted with the development application that demonstrates that the proposal satisfies the access and mobility controls contained in MDCP 2011 in that:

- Appropriate access is provided for all persons through the principal entrance to the premises;
- A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provided which allows a person with a disability to gain access to all areas within the shop; and
- An accessible toilet is provided.

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

The matter of accessible car parking is discussed under the heading "Parking (Part 2.10)".



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

(iii) Acoustic and Visual Privacy (Part 2.6)

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

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

- No windows are located on the side boundaries;
- The balconies along the front facade face the public domain (McGill Street and greenway), allow sufficient separation between the existing dwellings and the proposed building to maintain visual privacy for the occupants and surrounding properties.;
- Balconies are proposed to be fitted with louvered screens on the northern and southern facades to alleviate impacts upon adjoining properties and within the development and allows sufficient separation between the dwellings to maintain visual privacy for the occupants;
- The layout and landscaping around the perimeter of the site is considered to ensure visual and acoustic privacy of the surrounding area;
- The proposal will result in a building separation which is consistent with the ADG;
- Privacy screens have been located on the southern façade of Building A and B to alleviate any visual or acoustic interface impacts from the adjoining property at 14-18 McGill Street; and
- With regard to acoustic privacy, the development is located adjacent to the railway line. Appropriate noise attenuation measures have been incorporated into the development.

The proposal is considered to comply with the visual and acoustic privacy controls under MDCP 2011.

(iv) Solar Access and Overshadowing (Part 2.7)

*Overshadowing*

The greatest overshadowing impacts from the proposed development will be on the residential property to the south at 14-18 McGill Street which is yet to be constructed. Land and Environment Court proceedings No. 10878 of 2015 dated 8 April 2016, approved an application for the demolition of the existing single storey factory and erection of an 8 storey building with subterranean carpark basements for a residential development at 14-18 McGill Street. The determination was made by the Land and Environment Court under Section 34(3)(a) and (b) of the Land and Environment Court Act 1979.

During the assessment of that application, the shadow analysis concluded that 47 of the 66 dwellings (71%) in the development at 14-18 McGill Street would receive the minimum required direct solar access or more between 9.00am to 3.00pm at winter solstice on 21 June which complies with Council's solar access requirements and the SEPP 65 / RFDC. This assessment was based on the development scheme which complies with the number of storeys contained within the Part 9.45 masterplan i.e. 2 part 4 storey building. It is noted that during the court proceedings Council's Assessment Officer raised concerns regarding the validity of the statement that 47 of the 66 dwellings (71%) in the development at 14-18 McGill Street would receive solar access.

It is noted that the building envelope currently proposed in this application is greater than what was envisaged which results in additional overshadowing impacts on 14-18 McGill Street. During the assessment of this application for 4-12 McGill Street, the applicant was requested to provide

overshadowing details to compare the impacts of the proposed development with a compliant development, having regard to DCP envelope controls.

The development will have some impact on the amount of solar access that a number of apartments receive during mid-winter at 14-18 McGill Street. Most of the affected apartments are located within the central part of the northern façade which directly overlook the site at 4-12 McGill Street. The shadow diagrams indicate that while there is an impact, these apartments still receive a minimum 2 hours of solar access to their balcony and living rooms in accordance with the requirements of the Apartment Design Guide.

The shadow diagrams indicate that a compliant development (4 storeys) will have the following overshadowing impacts:

- Overshadowing of the ground floor of the buildings on the eastern side of McGill Street will occur from 2pm.
- The pedestrian footpath on the western side of McGill Street will be overshadowed from 12pm onwards but sufficient receives solar access in the morning
- The pedestrian footpath on the eastern side of McGill Street will be overshadowed from approximately 1.30pm.

The shadow diagrams indicate that the proposed development (6 storeys) will have the following overshadowing impacts:

- Overshadowing of the ground floor of the buildings on the eastern side of McGill Street will occur from 1pm.
- The pedestrian footpath on the western side of McGill Street will be overshadowed from 11.30pm onwards;
- The pedestrian footpath on the eastern side of McGill Street will be overshadowed from approximately 1pm.

Council controls contained within Part 2.7 of MDCP 2011 require direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation and direct solar access must not be reduced to less than two hours between 9.00am and 3.00pm on 21 June. The Apartment Design Guide requires *“Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter”*.

The applicant has provided justification of the overshadowing impacts in the following manner:

- 14 McGill Street does not provide an optimal built form to capture sunlight, with a blank wall at the upper levels of the development oriented to the north.
- The proposal at 4-12 McGill Street does not impact on the upper levels on 14 McGill Street which could be redesigned to achieve an improved solar access provision.
- Notwithstanding the reduction of solar access to these future units, the proposal further minimises impacts as far as practical via building mass split into two blocks, thus allowing sunlight to penetrate through the site via a central separation zone to 14 McGill Street as envisaged by the masterplan.
- Further, a nil setback to the shared side boundary also allows the buildings between the two sites to align and for windows to be placed appropriately to ensure maximum sunlight access versus maintaining privacy.

The proposed development seeks to vary the number of storeys contained in Part 9 of MDCP and varies slightly from the maximum FSR prescribed under MLEP 2011. Despite this, it is noted that the footprint of the proposed Buildings A and B are aligned to what was envisaged by the planning controls in Part 9.45 of MDCP 2011. Analysis reveals that the additional bulk and scale creates generally similar overshadowing impacts on the adjoining site to the south than what was

envisaged under the development standards contained in MLEP 2011 and the masterplan contained in Part 9 of MDCP 2011.

Given the overshadowing is caused by complying building elements, the development is supported and the application is recommended for approval.

#### *Solar Access*

The plans and shadow diagrams submitted with the application illustrate that the development complies with Council's solar access controls above. The north facing orientation of the site, as well the relatively narrow shape of the allotment has allowed the majority of the dwellings in the development to receive direct sunlight for greater than 2 hours during mid-winter. 38 apartments out of the 60 apartments proposed (75%) will receive more than 2 hours direct sunlight.

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

#### (v) Social Impact Assessment (Part 2.8)

Table 1 in Part 2.8 of MDCP 2011 details what level of social impact assessment various development types require.

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

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

#### (vi) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 contains the following objectives relating to community safety.

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

- The principal entrance to the residential and commercial component of the development is obvious and secure;
- The proposal adequately activates the street frontages;
- The natural topography of the site and built forms allow for territorial reinforcement and space management; and
- The dwellings are designed to overlook the street.

A condition has been included in the recommendation to require lighting details of the pedestrian areas, parking areas and all entrances. The development therefore satisfies Part 2.9 of MDCP 2011.

#### (vii) 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? |
|--------------------|---------|----------|----------|-----------|
| <b>Car Parking</b> |         |          |          |           |



| Component                | Control  | Required                                 | Proposed  | Complies?  |
|--------------------------|--|--|---|--|
| Resident Car Parking     | 0.4 car parking space per studio   | 0 studio units = 0 spaces                | 56 spaces and 16 accessible                             | No (exceeds by 4 car parking spaces)   |
|                          | 0.5 car parking spaces per 1 bedroom unit                                    | 26 x 1 bed units = 13 spaces             |   |  |
|                          | 1 car parking spaces per 2 bedroom unit                                      | 33 x 2 bed unit = 33 spaces              |   |  |
|                          | 1.2 car parking spaces per 3 bedroom unit                                    | 5 x 3 bed unit = 6 spaces                |   |  |
|                          | 1 car parking space per 1 adaptable dwelling                                 | 16 accessible spaces                     |   |  |
|                          | TOTAL:   | 52 spaces and 16 accessible              |   |  |
| Commercial Car Parking   | 1 per 80gfa for customers and staff  | 360sqm = 5 spaces                        | 3 spaces including 1 accessible space + 1 loading space | No (deficient by 2 spaces for customers and staff, exceeds by 1 loading space) |
|                          |  |  |   |  |
| Visitor Car Parking      | 0.1 car parking space per unit   | 64 units = 6 spaces                      | 7 spaces and 4 accessible spaces                        | No (exceeds by 1 visitor car parking space)                                    |
|                          | 1 accessible visitor's car parking space per 4 accessible car parking spaces | 4 accessible spaces                      |   |  |
| Bicycle Parking          |  |  |   |  |
| Resident Bicycle Parking | 1 bicycle parking space per 2 units  | 80 units = 40 spaces                     | 54 spaces   | No (exceeds by 6 spaces)   |
| Visitor Bicycle Parking  | 1 bicycle parking space per 10 units   | 80 units = 8 spaces                      |   |  |
|                          | Total  | 48 spaces                                |   |  |
| Motorcycle Parking       |  |  |   |  |
| Motorcycle Parking       | 5% of the total car parking requirement                                      | 66 car parking spaces required = 3 space | 4 space   | No (exceeds by 1 space)  |

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

As detailed above, the development does not comply with Council's parking controls in relation to the residential and visitor parking component and for commercial car parking. The development proposes 56 spaces and 16 accessible spaces which exceeds Council's controls by 4 spaces for the residential component and is deficient by 2 staff car parking spaces and 1 visitor parking space for the commercial component.

Despite this, the development exceeds council's controls by 3 car parking spaces (2 resident car spaces and 1 visitor car space) although after conditions have been included in the recommendation, the car parking non-compliance is 1 car parking space. Whilst the non-compliance is considered to be acceptable with respect to Part 2.10, this area has been included as GFA for the purposes of calculating FSR.

Given the exceedance in the proposed number of residential car parking spaces, a condition is included in the recommendation to ensure the revised allocation of car parking spaces to ensure compliance for the commercial and visitor components according to Part 2.10.

The applicant has proposed 54 bicycle spaces which are greater than the required 48 and the bicycle provision is considered to be acceptable as it satisfies the intent of Part 2.10 of MDCP

2011. The motorcycle parking exceeds Council's controls by 1 space which is considered to be appropriate in this instance.

#### *Vehicle Service and Delivery Area*

##### Residential

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

No service delivery space has been provided in accordance with Part 2.10.14 of MDCP 2011. A condition has been included in the recommendation to ensure sufficient space for the use of residents to use when a delivery area is required. The conditioned vehicle and service delivery area is in lieu of 1 allocated parking space and as such does not constitute an increase in the overall quantum of car parking spaces required as it replaces 1 residential parking space which exceeds the prescribed car parking rate.

##### Commercial

This application proposes the provision of a commercial loading bay. It is noted that the total number of car parking spaces for the commercial component is deficient by 2 spaces. A condition is included in the recommendation to ensure sufficient commercial spaces are provided. This is achieved by requiring that the commercial loading dock be used interchangeably as a commercial car parking space.

#### (viii) Energy Efficiency (Part 2.16)

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

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

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

#### (ix) Water Sensitive Urban Design (Part 2.17)

Part 2.17 of MDCP 2011 contains objectives and controls relating to Water Sensitive Urban Design (WSUD) including requirements for shop top developments.

In relation to water conservation requirements the residential components of such developments are required to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX) which has been addressed earlier in this report.

The application was referred to Council's Development Engineer who raised no objection to the proposal and recommended conditions that should be imposed on any consent granted. Those conditions are included in the recommendation of this report.

#### (x) Landscaping and Open Spaces (Part 2.18)

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

Each dwelling is provided with a balcony ranging from 8m<sup>2</sup> to 64.5m<sup>2</sup> in size with a minimum width of 2 metres in accordance with the requirements of MDCP 2011. All of the proposed balconies/courtyards are accessible from the principal living areas within the units and are considered to be acceptable.

The current design and size of the balconies/courtyards is considered to be acceptable with regard to Part 2.18 of MDCP 2011 and the ADG.

Part 2.18.11.7 of MDCP 2011 prescribes that *landscape areas for mixed use developments will be determined on merit and depend on the overall streetscape and the desired future character for the area/precinct*. The proposed development includes a sufficient amount of landscaping on the ground floor level between the 2 residential buildings and on the communal roof terrace which are reasonable areas that are proposed to be landscaped.

A landscape plan and maintenance schedule was submitted with the application which is considered to be acceptable.

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

*2.21.2.1 Recycling and Waste Management Plan*

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

*2.21.2.5 Residential Waste*

A minimum of 18 x 660 litre recycling bins, 10 x 660 litre general waste bins and 2 x 660 litre green waste bins are required to be provided for the development.

A bin storage area is proposed within the ground floor and basement levels floor level of the development with a capacity to accommodate the required waste facilities for recycling and general waste under Part 2.21. The RWMP submitted with the application indicates that waste collection will occur from McGill Street.

*2.21.2.6 Commercial Waste*

A minimum of 3 x 660 litre recycling, and 2 x 660 litre general waste bins are required to be provided for the development.

A bin storage area is proposed within the ground floor and basement levels of the development with a capacity to accommodate the required waste facilities for recycling and general waste under Part 2.21. Appropriate conditions have been included in the recommendation with regard to services to be incorporated within the waste storage rooms.

*2.21.3.1 Clothes drying facilities*

Details regarding the provision of outdoor clothes drying facilities were not submitted with the application. Given the omission of the above details, a condition is included in the recommendation requiring the submission of details indicating the provision of clothes drying facilities for all dwellings to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

*2.21.3.2 Public utilities*

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

*2.21.3.3 Mail boxes*

Details regarding the location of mail boxes for the development were not submitted with the application. Given the omission of the above details, a condition is included in the recommendation requiring the submission of such details to the Certifying Authority's satisfaction before the issue of a Construction Certificate.



#### 2.31.3.4 Building identification numbers

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

#### 2.21.3.5 Telecommunication facilities

A condition is included in the recommendation requiring the provision of suitable telecommunication facilities in accordance with Part 2.21.6 of MDCP 2011.

#### (xi) Stormwater Management (Part 2.25)

A concept drainage plan was submitted with the application. The application was referred to Council's Development Engineer who advised that the proposal is considered acceptable with regard to the objectives and controls relating to stormwater management under Part 2.25 of MDCP 2011.

### **PART 3 – SUBDIVISION, AMALGAMATION AND MOVEMENT NETWORKS**

Part 3.3 of MDCP 2011 contains controls relating to subdivision. The site currently contains 4 allotments. In order to facilitate the development of the site the consolidation of the 4 separate lots into 1 lot is required.

The proposed development necessitates the consolidation of the separate land parcels given that the proposed building occupies the entire combined sites. The consolidation of the separate land parcels is considered acceptable and complies with the relevant controls in Part 3.2.1 of MDCP 2011 in the following ways:

- The proposed consolidation would not compromise the significant features of the existing site or adjoining sites, including streetscape, landscape features, trees, fences and rocky outcrops; and
- Site topography, existing services, vegetation, easements, stormwater management and vehicle access have been considered and influenced the consolidation.

Part 3 of MDCP 2011 requires consolidation of properties prior to the issue of a Construction Certificate to prevent future dealing in separately titled land. A condition has been included in the recommendation to this effect.

### **Part 4 - RESIDENTIAL DEVELOPMENT**

The site is located within the McGill Street Planning Precinct (Precinct 45). Many of the controls and objectives contained within Part 4.2 are effectively superseded by the controls contained within Part 9.45. The following assessment is in regards to controls which are not replicated within Part 9.45 of MDCP 2011:

#### *Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings*

#### (i) General Controls (Part 4.2.3)

Part 4.2.3 of MDCP 2011 prescribes the following dwelling mix requirements for mixed use developments containing 6 or more dwellings:

| Dwelling Type | Proposed           | Required | Complies |
|---------------|--------------------|----------|----------|
| Studio        | 2 dwellings(1.3%)  | 5-20%    | No       |
| 1 bedroom     | 30 dwellings (38%) | 10-40%   | Yes      |

|            |                    |        |     |
|------------|--------------------|--------|-----|
| 2 bedroom  | 38 dwellings (47%) | 40-75% | Yes |
| 3 bedroom+ | 10 dwellings (12%) | 10-45% | Yes |

The development includes 2 x studio dwellings, 31 x 1 bedroom dwellings, 38 x 2 bedroom dwellings and 10 x 3 bedroom dwellings which does not comply with the abovementioned unit mix requirements. The development does not strictly comply with the dwelling mix prescribed under Part 4.2.3 of MDCP 2011.

Having regard to the local area, the development is considered to provide a suitable dwelling mix to meet the demand for the local demographic. The non-compliance is considered minor and represents an undersupply of 2 x studio dwellings. Having regard to the mixture of dwellings proposed, the non-compliance is considered relatively minor and acceptable given that the proposed development would be able to achieve the objectives of the control.

### **PART 9 - STRATEGIC CONTEXT**

The land is located in the McGill Street Planning Precinct (Precinct 45) under Part 9.45 of MDCP 2011.

Part 9.45 of the DCP prescribes site specific Masterplan Area (MA 45.3) controls to achieve the desired future character for the McGill Street Planning Precinct. The following discussion relates specifically to the departures from the site specific Masterplan Area controls:

#### **(i) Future Land Use**

Part 9.45.7 encourages residential uses for 14 McGill Street with ground floor live/work flexibility shown in the future land use diagram below:



*Figure 31: Future Land Use Diagram*

The Masterplan encourages live work areas along the Greenway to provide a pleasant outlook or along McGill Street to assist with its activation. Whilst the development does not propose any live work spaces on the ground floor, the development does propose ground floor commercial activities at 4 McGill Street with residential above, which is in keeping with the intent of the masterplan future land use controls in Part 9.45.7. The proposed commercial tenancy within Building B with a café and art education space adequately activates the greenway which is consistent with the intent of the controls of Part 9.45.7, and as such, the variation from providing live/work spaces is acceptable in this instance.

## **(ii) Site Amalgamation**

Control C9 in Part 9.45.8 of MDCP 2011 prescribes the following site amalgamation pattern as shown in the plan diagram below:





*Figure 32: Plan Diagram*

The development does not comply with the amalgamation pattern indicated in Figure 45.5 from Part 9.45.8 reproduced above. 14-18 McGill Street is required to be amalgamated with 2-12 McGill Street to form 'Site 2' with a total area of 4,288sqm. This application proposes to depart from the required amalgamation pattern by developing the site in isolation.

A planning principle has been established by the NSW Land and Environment Court to deal with amalgamation of development sites. The general questions that need to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are:

- 1) Firstly, is amalgamation of the sites feasible?
- 2) Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

The planning principles to be applied in determining the answer to the first question are set out by Brown C in *Melissa Grech v Auburn Council* [2004] NSWLEC 40. In that case, Commissioner Brown established the planning principle as follows:

*"Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application."*

*Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the*

*properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

*Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.”*

In a subsequent decision in *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189, the principles of *Brown C* were extended to deal with the second question and stated that:

*“The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*

*To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

*The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.”*

Evidence was submitted with the application indicating 3 attempts were made by the applicant to purchase or amalgamate the property through letters of offer with the adjoining property at 2 McGill Street in order to develop the sites concurrently. The offers were based on an independent valuation that was obtained by the applicant and provided a valuation value for the land ‘as is’ and as part of an amalgamated site. No response was received from the adjoining owners in writing. It is noted that no attempt was made to contact the owners of 14-18 McGill Street as is required by Control C9 given that approval has already been given to develop the site separately. The letters of offer are considered to generally satisfy the site isolation court principle in *Melissa Grech v Auburn Council* [2004] NSWLEC 40.

However, given that the application seeks to vary the amalgamation pattern, Council needs to be satisfied that both sites are able to achieve a development of appropriate urban form and with an acceptable level of amenity as described in *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189. Attempts have been made to integrate the development with the adjoining site. An integrated development with the adjoining site has allowed for common services to be provided with the adjoining site at 2-12 McGill Street such as a common substation, sharing vehicular access using the right of way from McGill Street, sharing the common open space area as envisaged in the masterplanned area. The applicant has provided an indicative layout which shows that the adjoining site is able to reach its development potential without the need for amalgamation with the subject site.

In view of the circumstances, the proposed development is acceptable as it is generally consistent with the remaining amalgamation pattern envisaged in the planning controls contained within Part 9 of MDCP 2011.

**(iii) Built Form**

Control C14 prescribes the maximum FSR to be consistent with the FSR standards described within the MLEP 2011. Controls C15-17 prescribe a maximum height in storeys of a part 2, part 4, part 6 storey development on 4-12 McGill Street.



*Figure 33: Height of buildings diagram*

The development proposes a 6 storey form which slightly breaches Council's FSR development standard contained in MLEP 2011 as discussed in Section 9 of this report. It is assessed that the development satisfies the desired future character of the area established by Part 9.45 of MDCP 2011. The built form section of the McGill Street masterplan sets guidelines for the height controls. Key features of the height controls are that opportunities for taller and denser development must be predominately located adjacent to the new park or green way for greater amenity and views, and developments must respond to the existing character of the adjoining detached residential dwellings and be sited entirely within the footprint area and comply with the built form controls.

Despite the non-compliance with Figure 33, the proposed building form is considered to respond positively to the future character controls contained within the Masterplan. Additional bulk has been positioned to the rear of the site to allow for greater amenity and views for future residents. The additional bulk does not present significant additional overshadowing impacts on the surrounding area. The overshadowing analysis on 20 McGill Street reveals acceptable overshadowing impacts on the adjoining site as detailed earlier in the report. A smaller building bulk and greater building articulation would not significantly reduce the amenity impacts on the surrounding sites.



This development site is one of the last sites to gain approval within the McGill Street Masterplan Precinct. The proposed development complies with the LEP height development standard, with a minor variation of 6.4% to FSR. It is noted that a significant FSR non-compliance has been granted by the Land and Environmental Court on the adjoining site at 14 McGill Street (84% variation), and Council has accepted FSR variations on other sites within the McGill Street precinct which are greater than the non-compliance proposed in this application. It is considered that there is no public benefit in maintaining this development standard for this site/proposal as a variation from the proposed design would result in a development which is out of character with development that has already been approved in the precinct.

#### **(iv) Building Depth**

Part 9.45.4 requires a maximum building depth of 20 metres (glass to glass line) to provide good amenity, cross ventilation and to limit the bulk of buildings. The development proposes a maximum building depth of 23 metres which does not comply with the controls. However the departure of the maximum building depth control is considered to be acceptable given that it is for a relatively minor portion of the development where the lot is an irregular shape facing Hawthorne Canal. Overall, the development provides dwellings with acceptable levels of residential amenity.

#### **(iv) Public Domain Interface**

Part 9.45.10 requires a maximum 'build to frontage' of 80% along the greenway frontage. The applicant contends that this control has been satisfied due to the 9 metre separation of Building B from 2 McGill Street for the pedestrian through site link. It has been noted that the separation at ground level is 5 metres not the required 9 metres which gives a 90% 'build to frontage'. Despite the non-compliance proposed development is considered to adequately address the greenway and the curved façade of the art and education space provides sufficient modulation. The commercial use creates active spaces which will support and enhance the vitality of the area. To assist with the public domain interface between the development and the greenway, conditions have been included in the recommendation to ensure the development has regard to the principles contained within the draft Lewisham West Precinct Public Domain Guidelines.



*Figure 34: Buildings and Public Domain*

## 11. 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 \$1,340,205.65 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

## 12. 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. 11 submissions were received raising the following concerns which have already been discussed throughout the main body of this report:

- (i) Lack of amalgamation of the entire McGill Street site;
- (ii) Reduced development potential of 2 McGill Street
- (iii) Large number of extra traffic movements within the precinct;
- (iv) Excessive bulk and scale, overdevelopment of the site;
- (v) The higher buildings require larger setbacks;
- (vi) Overshadowing and solar access to the properties to the south;
- (vii) Concern regarding dwelling mix in large estates;
- (viii) Concern regarding how garbage will be collected from the site;
- (ix) Privacy and overlooking;
- (x) Removal of trees should not be supported

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

- (i) Concern regarding the connection with the greenway and the community use

Comment:

Concern has been raised regarding the perceived lack of connection from the park and green spaces with the proposed community use. Council considers that the community use adjacent to the greenway and light rail access is an appropriate location and should be supported. The unnamed park on Hudson Street was approved by the Planning Assessment Commission (PAC) and the JRPP and as such has no bearing on the assessment of this site.

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.

### 13. Conclusion

The application seeks consent to demolish existing improvements and construct a mixed use development consisting of a 6 storey building (Building A) fronting McGill Street and a 5 storey building (Building B) fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy within Building B for use as art education and café space with 2 basement car parking levels and associated landscape works. The heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as are of relevance to the application, have been taken into consideration in the assessment of the application.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

## **PART E - RECOMMENDATION**

- A. **THAT** the development application to demolish existing improvements and construct a mixed use development consisting of a 6 storey building (Building A) fronting McGill Street and a 5 storey building (Building B) fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy within Building B for use as art education and café space with 2 basement car parking levels and associated landscape works be **APPROVED** subject to the following conditions:

### **GENERAL**

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

| Plan, Revision and Issue No.              | Plan Name            | Date Issued | Prepared by        | Date Submitted |
|---|----------------------|-------------|--------------------|----------------|
| Dwg No. A009, Project No. 947, Revision D | Streetscape analysis | 8 July 2016 | Tony Owen Partners | 8 July 2016    |
| Dwg No. A090, Project No. 947, Revision C | Basement 2 Plan      | 3 June 2016 | Tony Owen Partners | 3 June 2016    |
| Dwg No. A091,                             | Basement 1 Plan      | 3 June      | Tony Owen          | 3 June         |



|   |                                |                |                       |                |
|---|--------------------------------|----------------|-----------------------|----------------|
| Project No. 947,<br>Revision C                  |                                | 2016           | Partners              | 2016           |
| Dwg No. A100,<br>Project No. 947,<br>Revision D | Ground Floor<br>Plan           | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A101,<br>Project No. 947,<br>Revision C | Level 1 Floor<br>Plan          | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A101,<br>Project No. 947,<br>Revision C | Level 1 Floor<br>Plan          | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A102,<br>Project No. 947,<br>Revision C | Level 2 Floor<br>Plan          | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A103,<br>Project No. 947,<br>Revision C | Level 3 Floor<br>Plan          | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A104,<br>Project No. 947,<br>Revision C | Level 4 Floor<br>Plan          | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A105,<br>Project No. 947,<br>Revision C | Level 5 Floor<br>Plan          | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A110,<br>Project No. 947,<br>Revision C | Roof Plan                      | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A130,<br>Project No. 947,<br>Revision C | Adaptable Units 1<br>Plan      | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A131,<br>Project No. 947,<br>Revision C | Adaptable Units 2<br>Plan      | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A132,<br>Project No. 947,<br>Revision C | Adaptable Units 3<br>Plan      | 3 June<br>2016 | Tony Owen<br>Partners | 3 June<br>2016 |
| Dwg No. A200,<br>Project No. 947,<br>Revision D | Building A – East<br>Elevation | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A201,<br>Project No. 947,<br>Revision D | Building A – West<br>elevation | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A202,<br>Project No. 947,<br>Revision D | Building B – East<br>Elevation | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A203,<br>Project No. 947,<br>Revision D | Building B – West<br>elevation | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A204,<br>Project No. 947,<br>Revision D | North elevation                | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A205,<br>Project No. 947,<br>Revision D | South elevation                | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |
| Dwg No. A300,<br>Project No. 947,<br>Revision D | Section A                      | 8 July 2016    | Tony Owen<br>Partners | 8 July 2016    |

|   |   |                    |   |                    |
|---|---|--------------------|---|--------------------|
| Dwg No. A301,<br>Project No. 947,<br>Revision D | Section B   | 8 July 2016        | Tony Owen<br>Partners                           | 8 July 2016        |
| Dwg No. A352,<br>Project No. 947,<br>Revision C | Ramp Section 1  | 3 June<br>2016     | Tony Owen<br>Partners                           | 3 June<br>2016     |
| Dwg No. A352,<br>Project No. 947,<br>Revision C | Ramp Section 2  | 3 June<br>2016     | Tony Owen<br>Partners                           | 3 June<br>2016     |
| Dwg No. A360,<br>Project No. 947,<br>Revision D | Public and<br>Private Interface                         | 8 July 2016        | Tony Owen<br>Partners                           | 8 July 2016        |
| Dwg No. A382,<br>Project No. 947,<br>Revision C | Architectural<br>Character Colour<br>Scheme 1           | 3 June<br>2016     | Tony Owen<br>Partners                           | 3 June<br>2016     |
| Dwg No. A383,<br>Project No. 947,<br>Revision C | Architectural<br>Character Colour<br>Scheme 2           | 3 June<br>2016     | Tony Owen<br>Partners                           | 3 June<br>2016     |
| Dwg No. A450,<br>Project No. 947,<br>Revision C | Art Café Kitchen<br>Details                             | 3 June<br>2016     | Tony Owen<br>Partners                           | 3 June<br>2016     |
| Dwg No. A700,<br>Project No. 947,<br>Revision D | External Material<br>Finishes                           | 8 July 2016        | Tony Owen<br>Partners                           | 8 July 2016        |
| SW02, Rev A,<br>Project No.<br>20150297         | Stormwater<br>concept design –<br>Basement 2 plan       | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| SW03, Rev A,<br>Project No.<br>20150297         | Stormwater<br>concept design –<br>Ground Floor<br>plan  | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| SW04, Rev B,<br>Project No.<br>20150297         | Stormwater<br>concept design –<br>Roof plan             | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| SW05, Rev A,<br>Project No.<br>20150297         | Sediment and<br>erosion control<br>plan                 | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| SW06, Rev A,<br>Project No.<br>20150297         | Stormwater<br>concept plan                              | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| SW07, Rev A,<br>Project No.<br>20150297         | Stormwater<br>concept plan –<br>music catchment<br>plan | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| SW08, Rev A,<br>Project No.<br>20150297         | Stormwater<br>concept plan –<br>storm filter plan       | 30 October<br>2015 | SGC   | 25 January<br>2015 |
| Ref 15184, Rev C                                | Traffic Report  | Undated            | Transport and<br>traffic planning<br>associates | 9 June<br>2016     |
| Revision D                                      | Recycling and<br>Waste<br>Management<br>Plan            | 22 April<br>2015   | Elephants Foot                                  | 22 April<br>2016   |
|   | Design<br>Verification                                  | 3 November<br>2015 | Tony Owen<br>Partners                           | 2 December<br>2015 |

|                    | Statement  |                  |   |                 |
|--------------------|--|------------------|---|-----------------|
| SYD2015-1064-R001B | Acoustic Report  | 9 November 2015  | Acouras Consultancy                         | 2 December 2015 |
| 676728M            | BASIX Certificate                                      | 2 November 2015  | Department of Planning and Environment      | 2 December 2015 |
| LPDA 16-202/1      | Landscape Plan Ground floor                            | 30 October 2015  | Conzept Landscape Architects                | 2 December 2015 |
| LPDA 16-202/2      | Landscape Plan Communal open space                     | 30 October 2015  | Conzept Landscape Architects                | 2 December 2015 |
| LPDA 16-202/3      | Roof tops  | 30 October 2015  | Conzept Landscape Architects                | 2 December 2015 |
| LPDA 16-202/4      | Details  | 30 October 2015  | Conzept Landscape Architects                | 2 December 2015 |
| 2015.0297-L02      | Flood Impact Assessment                                | 14 October 2016  | SGC Consultants Pty Ltd                     | 21 April 2016   |
| E22830 AA, Rev 0   | Detailed Site Investigation                            | April 2016       | Eiaustralia                                 | 5 May 2016      |
|                    | Plan of Management                                     | November 2015    | Australian Fujian Association Incperate Inc | 2 December 2015 |
| E22830 AB, Rev 0   | Remediation Action Plan                                | 6 May 2016       | Eiaustralia                                 | 5 May 2015      |
| Ref 15355          | Social Impact Statement                                | 23 November 2015 | JBA   | 2 December 2015 |
| Rev 1              | Long Nosed Bandicoot Assessment of Significance Report | 26 April 2016    | Ecological Australia                        | 26 April 2016   |
| E22830 GA          | Geotechnical Assessment Report                         | 20 April 2016    | EiAustralia                                 | 21 April 2016   |

and details submitted to Council on 2 December 2015, 25 January 2015, 22 April 2016, 26 April 2016, 5 May 2016, 9 June 2016, 3 July 2016 and 8 July 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. Where any plans and/or information forming part of a construction certificate issued in relation to this consent are inconsistent with:

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

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



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

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

3. In order to ensure the architectural and urban design excellence of the development is retained:

- i) The design architect is to have direct involvement in the design documentation, contract documentation and construction strategies of the project;
- ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
- iii) Evidence of the design architect's commission is to be provided to the Council prior to the release of the construction certificate.
- iv) The design architect of the project is not to be changed without prior notice and approval of the Council.

Reason: To ensure design excellence is maintained.

4. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in External Material Finishes dated 8 July 2016, prepared by Tony Owen (Dwg No. A700, Project No. 947, Revision D). No changes may be made to these drawings except by way of an application under section 96 of the *Environmental Planning and Assessment Act 1979*.

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

5. 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.

6. Separate Development Consent or Complying Development Certificate must be obtained for the use of the commercial tenancy prior to the occupation of that part of the premises.

Reason: To advise the applicant of the necessity of obtaining Council approval for the use of the shops/commercial suites prior to their occupation.

7. At all times, the person acting on this consent must incorporate the listed management procedures contained in Part 4 Recommendations and Conclusion of the Statement of Significance, Revision no. 1, prepared by Ecological Australia, dated 26 April 2016, submitted to Council on 26 April 2016.

Reason: To ensure the development incorporates the measures contained in the submitted Statement of Significance.

8. All proposed art on the ground floor must align with Council's Public Art Policy and relevant Council strategies and should be developed to the satisfaction of Council's Manager Culture and Recreation.

Reason: To ensure the proposed artwork complies with Council's Public Art Policy.

9. The ongoing use of the ground floor commercial tenancies complying with the following requirements at all times:

- a) The areas to be used as shops must be restricted to the ground floor commercial tenancies;
- b) The shop window display areas must be maintained at all times with no roller shutters being installed across the shopfronts;
- c) The hours of operation are restricted to between the hours of 7.00am to 7.00pm Monday to Saturday and not at any time on Sundays or public holidays;

- d) All loading and unloading in connection with the use must be carried out wholly within the property from the dedicated loading space at the rear of the site, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public;
- e) No storage of goods or equipment external to any building on the site is permitted; and
- f) No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.

Reason: To ensure that the commercial uses are confined to the ground floor shop areas, to preserve the streetscape and character of the area and to ensure that the operation of the premises does not interfere with the amenity of the locality.

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 16 adaptable dwellings must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility.

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

12. The café use must be restricted to not more than 19 customer seats without the prior approval of Council.

Reason: To ensure that the number of customers on the premises at any one time is not increased without a further review of the sanitary facilities available for the development.

13. Live music or entertainment must not be provided within the commercial premises.

Reason: To protect the amenity of the surrounding neighbourhood.

14. 85 off-street car parking spaces must be provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking. The parking must be allocated as follows:

- a) A minimum of 52 spaces being allocated to the residential dwellings;
- b) 16 accessible car parking spaces, 1 accessible car space per adaptable dwelling;
- c) 10 visitor car parking spaces, 4 of which is designed as an accessible space;
- d) 4 car parking spaces allocated to the ground floor retail/commercial tenancies;
- e) 1 loading dock for use by the art education space which shall be used interchangeably as a commercial car parking space; and
- f) 1 car wash/ loading dock for use by residents when a delivery area is required.

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.

15. 54 off-street bicycle parking spaces must be provided, paved, linemarked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

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

16. 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.

17. 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.

18. The use of the premises, including any plant and equipment, must not give rise to:

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

Reason: To prevent loss of amenity to the area.

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

Reason: To protect the amenity of the surrounding neighbourhood.

20. Separate Development Consent or Complying Development Certificate must be obtained prior to the erection of any advertisements or advertising structures. The shop windows must not be painted with advertisements and no flashing lights are to be installed on the premises.

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

21. The following is a waste condition:

- a) The owners of the property appointing a designated person(s) responsible for moving waste bins from their usual storage space in the basement to the place to the collection point for the storage of domestic bins being in accordance with details to be submitted to Council's satisfaction;
- b) The domestic bins only being placed in the approved collection point after 7.00pm on the day prior to collection and are to be returned to their storage location within the building within 2 hours of the bins being collected by Council. The owner's corporation being responsible to ensure compliance with this condition.
- c) Tenants (commercial and residential) shall be advised to anticipate heightened noise levels during garbage collection;
- d) Council is to be provided with key access to the ground floor parking area to facilitate on-site garbage collection.
- e) Should the waste conditions not be met, Council reserves the right to reconsider servicing the site for garbage collection, in accordance with Council's Fees and Charges.
- f) No compaction of waste is permitted within the development in accordance Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management.
- g) The person acting on this consent shall advise any purchaser or prospective tenant of this condition.

Reason: To ensure the appropriate collection and disposal of waste generated on the site and to ensure that the use does not interfere with the amenity of the surrounding neighbourhood and does not affect the commercial operation of the building.



22. Waste receptacles must not be transported through the building or the building lifts.  
Reason: To ensure the appropriate collection and disposal of waste generated on the site.
23. All machinery must be installed in accordance with the manufacturer's specifications and must be maintained at all times if in use.  
Reason: To ensure that such machines are properly installed and maintained so as to prevent noise generation, vibration and any other disturbances to adjoining premises.
24. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.  
Reason: To ensure that the development is adequately serviced.
25. 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.
26. 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).
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. 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.
30. 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.
31. Sydney Trains and Transport for NSW, or the light rail operator, 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.
32. 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.
33. No scaffolding is to be used within 6 horizontal metres of 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.

34. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development landscaping and planting plan should be submitted to Sydney Trains for review.

Reason: To ensure compliance with Sydney Trains concurrence terms.

35. 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.

36. Owners and occupants of the proposed building shall not be eligible for any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition.

Reason: To ensure the development does not reduce the amount of "on street" parking currently available.

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

Reason: To provide for adequate site drainage.

### **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).**

38. 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.

39. 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.

40. 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.

41. All demolition work must:

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

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

42. 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.

43. 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.

44. 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.

45. 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.

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

46. 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.

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

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

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

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

48. The person acting on this consent is responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at 2 and 14 McGill Street, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

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

49. 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.

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

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

51. The person acting on this consent must 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.

52. A detailed Traffic Management Plan to cater for construction traffic must be submitted to and approved by Council before commencement of works. Details must include proposed truck parking areas, construction zones, crane usage, truck routes etc. All construction traffic must comply at all times with the approved Traffic Management Plan. The developer must ensure that all construction workers and contractors are fully aware of the approved Traffic Management Plan.

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



53. The person acting on this consent must 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 must submit a hoarding application and pay all relevant fees before commencement of works.  
Reason: To secure the site and to maintain public safety.
54. Alignment levels for the site at all pedestrian and vehicular access locations must be obtained from Council before the commencement of construction. The alignment levels must match the existing back of footpath levels at the boundary. 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.
55. 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.
56. If a new street number or a change to the street number (this includes unit and shop numbers) is required, a separate application must be made to and approved by council prior to that street number being displayed.  
Reason: To ensure that the building is easily identifiable.
57. Prior to the commencement of works, any trees within neighbouring properties less than 5 metres from the property boundary of the subject property shall be plotted onto all relevant site plans and drawings.  
Reason: To identify neighbour's tree that require protection during demolition and construction.
58. Prior to the commencement of works, owner's consent and details for compensatory tree planting in relation to the proposed removal of any trees on neighbouring properties shall be submitted to and approved by council.  
Reason: To ensure that trees are removed legally and that new trees are planted as required Marrickville Council policy.
59. Prior to the commencement of works, a tree protection plan in relation to any trees that are retained on neighbouring properties within 5 metres of the subject property boundary shall be submitted to and approved by Council.  
Reason: To ensure that adequate tree protection measures are provided.
60. Prior to the commencement of works the Principal Certifying Authority shall inspect tree protection measures, including the location of tree protection fencing and signage, and certify in writing that the measures comply with the council-approved tree protection plan.  
Reason: To ensure that adequate tree protection measures are provided.
61. 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.
62. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains or the light rail operator, 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.

63. 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 the requesting agency.

Reason: To ensure compliance with Sydney Trains concurrence terms.

64. 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.

65. 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.

66. 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.

67. 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.

## **BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

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

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

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

## **Section 94 Contribution**

69. a) This condition is imposed in accordance with Section 94 of the Environmental Planning and Assessment Act 1979.
- b) Before the issue of a Construction Certificate, the Council must be paid a monetary contribution of \$1,340,205.65 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 13 July 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. DC001520)**

- 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  | \$155,823.68   |
| Plan Administration   | \$26,278.59    |
| Recreation Facilities | \$1,159,198.98 |
| Traffic Facilities    | \$-1,095.61    |
- 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.

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

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

**For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.**  
<http://www.lspc.nsw.gov.au>.

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

71. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains,

stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

Reason: To ensure compliance with Sydney Water requirements.

72. A statement from a qualified Architect, verifying 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 Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment 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 Apartment Development.

73. 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.

74. Bicycle storage with the capacity to accommodate a minimum of 54 bicycles must be provided in accordance with the requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure sufficient bicycle storage facilities are provided on the site.

75. Before the issue of a Construction Certificate, amended plans shall be submitted to Council's Coordinator Waste Services Operations satisfaction that indicates:

- a) All waste and recycling storage or interim rooms must be in accordance with Figure 1 of Part 2.21 of MDCP 2011 and incorporate an appropriate tap with hose fitting, drain to Sydney Water approved drainage connection, signage showing appropriate content for general, recycling and green waste bins, smooth concrete floor graded to drain, roller door that is durable; self-closing; able to be opened from inside; wide enough for easy passage of bins;
- b) Angle of footpath between the garbage holding area and the McGill Street footpath shall be a flat smooth surface with a maximum gradient of 1:50.
- c) Doorways that are wide enough to allow a 660L bin to access all waste rooms in the building and appropriate recycling collection points on each residential level.

Reason: To ensure compliance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management of MDCP 2011.

76. Before the issue of a Construction Certificate, amended plans shall be submitted to Council's satisfaction that indicates a rolling curb for an appropriate portion of the McGill Street frontage as deemed appropriate by Council's Coordinator Waste Services Operations and Development Engineer.

Reason: To comply with Part 2.21 of Marrickville Development Control Plan 2011.



77. 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.

78. Adequate outdoor clothes drying areas/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 areas/facilities are provided on street facing balconies, the areas/facilities must be appropriately screened from view from the street.

Reason: To ensure adequate outdoor clothes drying facilities are provided.

79. 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.

80. Details shall be submitted to the Council's Coordinator of Tree Management's satisfaction before the issue of a Construction Certificate that shows the proposed street trees comply with the requirements contained within Council's Street Tree Masterplan.

Reason: To ensure consistency with Council's Street Tree Masterplan.

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

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

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

82. 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.

83. 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 Director Planning and Environmental Services 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.

84. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" in relation to interior design sound levels and in accordance with details being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

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

85. Prior to the issue of a Construction Certificate, the Applicant shall submit to Sydney Trains the following documentation for review and approval/certification:

- Revised “Interaction with RailCorp Property” report prepared by Jones Nicholson containing the following items:
  - Analysis of the proposed shoring system demonstrating that ground movements do not adversely impact rail corridor
- Final Geotechnical Investigation Report. Boreholes to be located along the rail corridor boundary and cored into sound bedrock.
- Given the potential groundwater issues a groundwater investigation and modelling report (including estimates of ground settlement due to dewatering).
- Revised Structural Design Site Plan confirming that piles are permanent.
- Revised Structural Design Section containing additional structural details and an accompanying structural report

The Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. It should be noted that the review of the above documentation may also trigger the need to submit additional documentation. Should this arise then the submittal of those documents will also form part of the conditions of consent.

Reason: To ensure compliance with Sydney Trains concurrence terms.

86. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning’s document titled “Development Near Rail Corridors and Busy Roads- Interim Guidelines”.

Reason: To ensure compliance with Sydney Trains concurrence terms.

87. Prior to 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 Principal Certifying Authority with the application for a Construction Certificate.

Reason: To ensure compliance with Sydney Trains concurrence terms.

88. 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.

89. 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.

90. 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.

91. 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.

92. 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.

93. 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.

94. The submitted landscape plan shall be amended in accordance with the draft Lewisham West Precinct Public Domain Guidelines and submitted to Director Planning and Environmental Services' satisfaction before the issue of a Construction Certificate.

Reason: To ensure all landscaping is in keeping with the character of the area.

95. 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.

96. 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.

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

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

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

98. The person acting on this consent shall provide to Council a bond in the amount of \$32,892.40 and pay the related Section 138 (Roads Act) inspection fee of \$206.00 (GST

inclusive) before the issue of a Construction Certificate to ensure the proper completion of the footpath and/or vehicular crossing works required as a result of this development.

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

99. 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.

100. Before the issue of a Construction Certificate, the submitted plans shall be amended in accordance with the draft Lewisham West Precinct Public Domain Guidelines. Detailed plans should indicate vehicular and pedestrian access, drainage, landscaping, fencing, footpath paving, kerb, street trees, landscaping, species selection; street furniture and ground levels shall be submitted to the satisfaction of Council's Director Planning and Environmental Services. The additional information should relate to the pedestrian zone interface with the Greenway and through site pedestrian walkway areas.

Reason: To ensure the public domain is in keeping with the character of the area.

101. Public access to the 'through site pedestrian walkway' must be maintained between the hours of 7.00am and 7.00pm 7 days.

Reason: To ensure appropriate access to the site is maintained.

102. As identified in the Hawthorne Canal Flood Study the site is subject to flooding during a 1 in 100 year storm event. The Flood Planning Level for the site has been determined to be of RL 12.25m AHD. The following additional information/flood protection measures shall be undertaken as follows:

- a) All structures below RL 12.25m AHD shall be constructed from flood compatible materials;
- b) The applicant shall also demonstrate that the building will be able to withstand the forces of flood water, debris and buoyancy to the 1 in 100 year flood level; and
- c) All electrical equipment and wiring shall be waterproofed or installed above RL 12.25m AHD.

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

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

103. The stormwater drainage plans SW01-C, SW02-B, SW03-C, SW04-B, SW05-A, SW06-B, SW07-B and SW08-A submitted by SGC Consultants P/L shall be amended or additional information provided before the issue of a Construction Certificate as follows;

- a) 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. Any variation to this requirement requires Council approval;
- b) Compliance with all of the requirements of Sydney Water in relation to stormwater drainage to the Hawthorne Canal. A Copy of Sydney Water's approval must be submitted to Council before the issue of a Construction Certificate.

Reason: To provide for adequate site drainage.

104. 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 (with the exception of the Greenway) 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 adopting the Neighbourhood Palette (paver pattern P2-A2) detailed in the Draft Public Domain Technical Manual;
- ii. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- iii. New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) shall be consistent with the majority of kerb type at this location. Council may be able to assist with the supply of stone if required. Please contact Council's Infrastructure Services Division on 9335 2000; and
- iv. Alignment levels to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. The alignment levels to be adopted shall be 2.5% above the existing (or proposed) adjacent top of kerb;

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.

105. A strip of land along the McGill Street frontage of sufficient width to allow for the construction of a 1.8m wide footpath shall be dedicated to Council as public road before the issue of a Construction Certificate. In addition amended plans incorporating the above requirements and deleting all encroachments above and below the land proposed for dedication shall also be submitted to Council before the issue of a Construction Certificate.

Reason: To provide for a minimum 1.8m wide public footpath for pedestrians.

106. A Hazardous Materials Survey (HAZMAT) shall be conducted and submitted to the satisfaction of Council as per the recommendations of the Preliminary Site Investigation prepared by Douglas Partners Pty Ltd dated 24 November 2015. This should address potential sources of contamination of existing site structures and any strategies to manage these during demolition, and site works. Any recommendations of this assessment shall be acted upon.

Reason: To ensure hazardous materials are managed appropriately.

## **SITE WORKS**

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

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

108. 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.

109. 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.

110. 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'.

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.

111. 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.

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

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

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

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

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

- a) At least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work; and
- b) That any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained. Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA before work commences.

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

114. 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.

115. 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.

116. 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.

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

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

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

**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](http://www.waterrating.gov.au).

Reason: To conserve water.

119. New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient for the commercial tenancy.

**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](http://www.waterrating.gov.au).

Reason: To conserve water.

120. All roof and surface stormwater from the site any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and must be discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.  
Reason: To provide for adequate site drainage.
121. All stormwater drainage must be designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3.2-1998 'Stormwater Drainage-Acceptable Solutions' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems must be designed to cater for the 20 year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the 20 year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the 50 year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths must be designed to cater for the 100 year A.R.I. storm.  
Reason: To provide for adequate site drainage.
122. No activities, storage or disposal of materials must take place beneath the canopy of any tree protected under Part 2.20 of Marrickville Development Control Plan 2011 - Tree Management at any time.  
Reason: To protect existing trees.
123. Tree protection measures shall be established, implemented and maintained for the duration of works in accordance with the council-approved tree protection plan.  
Reason: To ensure adequate tree protection for the duration of the approved works.
124. All builders' refuse, spoil and/or material unsuitable for use in landscape areas must be removed from the site on completion of the building works.  
Reason: To protect the environment.
125. During construction, all holes (eg 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 those 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.
126. 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.
127. 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.

128. 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 Sydney Water controlled stormwater drainage system in accordance with the requirements of Sydney Water.

Reason: To provide for adequate site drainage.

129. 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.

130. Additional works required to complete data gaps identified in the Detailed Site Investigation prepared by Environmental Investigations Australia Pty Ltd dated 26 April 2015 shall be conducted after demolition of existing structures, and before the disturbance of soil. This includes the installation of three groundwater monitoring holes, two additional soil testing boreholes at the current site of 4 McGill Street Lewisham, additional soil investigations to validate the suitability of the proposed deep planting areas. If the additional findings require variation or amendments to the approved RAP, these are to be reported to an approved by Council prior to being undertaken.

Reason: To ensure compliance with SEPP 55.

131. The remediation of the site shall be undertaken according to the approved Remedial Action Plan (RAP) prepared by Environmental Investigations Australia Pty Ltd dated 6 May 2016. Any variation or amendments to the approved RAP, these are to be reported to an approved by Council prior to being undertaken.

Reason: To ensure compliance with SEPP 55.

132. Any disposed soil from the site shall be classified in accordance with the NSW Environmental Protection Authority's *Waste Classification Guidelines 2014* and being carried out in accordance with the requirements of the NSW Environmental Protection Authority.

Reason: To provide for correct disposal of wastes.

133. If during site works there are significant unexpected occurrences, site works shall immediately cease. A suitably qualified environmental consultant shall be engaged to assess the site and determine if remediation is required in accordance with the NSW Environmental Protection Authority's *Guidelines for Consultants Reporting on Contaminated Sites 2011*. Any unexpected occurrences and management plans to address these occurrences shall be reported to and approved by Council. Note that Council may request that a NSW EPA Accredited Site Auditor review any proposed remedial or management plans.

Reason: To ensure compliance with SEPP 55.

134. Within 30 days of completion of any remediation works undertaken, including the decommissioning of underground storage infrastructure; the person acting on this consent shall submit to Council a Validation and Monitoring Report demonstrating evidence that the site has been remediated and is suitable for the proposed development (HIL-B - residential with minimal access to soil). Should any undertaken remediation strategy result in residual contamination to remain on the site, an Environmental Management Plan, must be provided to the satisfaction of Council that outlines measures to ensure residual contamination issues are managed. All reports are to be prepared in accordance with the NSW Environment Protection Authority's *Guidelines for Consultants Reporting on Contaminated Sites 2011*. Note that Council may request the applicant to engage a NSW EPA Accredited Site Auditor to provide a Site Audit Statement to certify site suitability.

Reason: To ensure any contamination risks are managed.

135. Any water (including water from excavations) shall be discharged to sewer, with the appropriate licence to be obtained; or disposed off-site to a suitably licensed facility. Alternatively, any water to be discharged to Council's stormwater system shall comply with the ANZECC Guidelines for Marine and Freshwater Quality for Protection of Aquatic Ecosystems (95% protection level for marine ecosystems).

Reason: To ensure the protection of the environment from contaminated groundwater.

### **BEFORE OCCUPATION OF THE BUILDING**

136. 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.

137. 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.

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

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

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

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

139. 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

Reason: To ensure compliance with Sydney Water requirements.

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

Reason: To ensure adequate landscaping is maintained.

141. A statement from a qualified Architect, verifying 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 Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development must be submitted to the Certifying Authority'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 Apartment Development.

142. 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.

143. 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](http://www.basix.nsw.gov.au).

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

144. 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".

145. 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.

146. A right-of-way for future vehicular access must be created in accordance with the Basement 2 Plan (Dwg No. A090, Project No. 947, Revision C, prepared 3 June 2016 and submitted 3 June 2016) and Basement 1 Plan (Dwg No. A091, Project No. 947, Revision C, prepared 3 June 2016 and submitted 3 June 2016) prepared by Tony Owen Partners before the issue of any Occupation Certificate (interim or final) so as to allow access through the site to 2 McGill Street.

Reason: To provide for future development and access of the adjacent sites.

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

- 18 x 660 litre bins for general waste streams;
- 10 x 660 litre for recycling waste streams; and
- 2 x 660L green waste bins.

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

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

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

149. 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.

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

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

151. 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 Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

152. 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 prior to the issuing of the Occupation Certificate. The Principle Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.

Reason: To ensure compliance with Sydney Trains concurrence terms.

153. 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.

154. 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

155. 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.

156. The existing stone kerb adjacent to the site is an item of heritage significance 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 and at no cost to Council.

Reason: To ensure that items of heritage significance are preserved.

157. New footpath shall be constructed for the full frontage of the site in McGill Street in accordance the Neighbourhood Palate and paver pattern P2-A2 as detailed in Council's Draft Public Domain Technical Manual at no cost to Council and before the issue of the Occupation Certificate.

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

158. Heavy duty vehicle crossing in accordance with the Draft Public Domain Technical Manual 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.

159. Before the issue of an Occupation Certificate, a Site Audit Statement prepared by an Accredited Site Auditor must be submitted to Council to certify the suitability of the land for

the proposed development. The applicant must adhere to any additional requirements or conditions imposed by the accredited site auditor if required.

Reason: To ensure that the site is fit for use and complies with SEPP 55.

160. The McGill Street road pavement (half road width) for the full frontage of the site shall be re-surfaced with a 40mm Mill & Fill treatment at no cost to Council and before the issue of the Occupation Certificate. This shall include heavy patching where the road pavement has failed.

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

161. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and quality measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. Details of all approvals from Sydney Water shall be submitted with the Certificate. 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 and Sydney Water requirements.

162. The terms of the right of carriageway (under sections 88B and E of the Conveyancing Act 1919) shall be made upon properties Lot 2 in DP 533963, Lot B in DP 161098, Lot E in DP 419611, Lot F in DP 101532 in the following manner:

1. Full and free right for the Authority Benefited, its employees, contractors and every person authorised by it, to, at all times:

i. Go, pass, repass and stand upon the Lot Burdened for the purpose of the removal of recyclable products, general waste and green waste products with or without vehicles; and

ii. Enter upon the Lot Burdened and remain there for a reasonable time for the purpose of the removal of recyclable products, general waste and green waste products.

2. The owner of the Lot Burdened cannot make any claim against the Authority Benefited, its employees, contractors and every persons authorised by it, for any repair, damage, loss or nuisance caused to the Lot Burdened as a result of the Authority Benefited, its employees, contractors or every persons authorised by it, exercising their right as set out in Clause 1.

3. The owner of the Lot Burdened indemnifies the Authority Benefited, its employees, contractors and persons authorised by it, against any future claim for repair, damage, loss or nuisance as a result of the Authority Benefited removing recyclable products, general waste and green waste products from the Lot burdened, except to the extent that such damage or loss is a result of the negligence of the Authority Benefited, its employees, contractors or persons authorised by it.

4. Where a building has secured access, the Authority Benefited, its employees, contractors and persons authorised by it, must be supplied an unlocking device to enable access to bins containing recyclable products, general waste and green waste products, to be emptied at the time of collection.

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

163. 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.

164. 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.

165. 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 \$3,500.00 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.

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

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

### **ADVISORY NOTES**

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works. This is to ensure the civil works are constructed to Council's specifications.
- 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.

- Contact “Dial Before You Dig” before commencing any building activity on the site.
- The enclosed Fact Sheet on Long-nosed Bandicoots should be read before commencing any works on site, including site preparation works.

- Useful Contacts

BASIX Information                      ☎ 1300 650 908 weekdays 2:00pm - 5:00pm  
[www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Department of Fair Trading            ☎ 13 32 20  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)  
Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Before You Dig                      ☎ 1100  
[www.dialbeforeyoudig.com.au](http://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](http://www.lspc.nsw.gov.au)

NSW Food Authority                      ☎ 1300 552 406  
[www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

NSW Government                          [www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.diysafe.nsw.gov.au](http://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](http://www.environment.nsw.gov.au)

Sydney Water                                ☎ 13 20 92  
[www.sydneywater.com.au](http://www.sydneywater.com.au)

Waste Service - SITA Environmental Solutions    ☎ 1300 651 116  
[www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS)                      [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW            ☎ 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)  
Enquiries relating to work safety and asbestos removal and disposal.



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

|   |   |
|---|---|
| <u>Premises:</u>                          | 4 McGill Street LEWISHAM  |
| <u>Applicant:</u>                         | Tony Owen Partners  |
| <u>Proposal:</u>                          | To demolish existing improvements and tree removal and construct a mixed use development consisting of a 6 storey building (Building A) fronting McGill Street and a 5 storey building (Building B) fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy within Building B for use as art education and café space with 2 basement car parking levels and associated landscape works. |
| <u>Determination:</u>                     | Deferred Commencement Consent   |
| <u>DA No:</u>                             | 201500682   |
| <u>Lot and DP:</u>                        | Lot 2 in DP 533963, Lot B in DP 161098, Lot E in DP 419611, Lot F in DP 101532  |
| <u>Category of Development:</u>           | 9 Mixed   |
| <u>Environmental Planning Instrument:</u> | Marrickville Local Environmental Plan 2011  |
| <u>Zoning of Land:</u>                    | B4 Mixed Use and R4 High Density Residential  |
| <u>Development Standard(s) varied:</u>    | Clause 4.4 – Floor space ratio  |
| <u>Justification of variation:</u>        | Strict compliance with the FSR development standard is unnecessary and unreasonable;<br>The additional FSR does not contribute to adverse impacts on adjacent properties, with the FSR proposed well below variations approved on neighbouring sites  |
| <u>Extent of variation:</u>               | 6.4%.   |
| <u>Concurring Authority:</u>              | Council under assumed concurrence of the Secretary<br>Department of Planning and Environment  |
| <u>Date of Determination:</u>             |   |