

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017SCL002
<b>DA Number</b>	DA201600662
<b>LGA</b>	Inner West
<b>Proposed Development</b>	to demolish existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking
<b>Street Address</b>	1A Hill Street, Dulwich Hill
<b>Applicant/Owner</b>	Peter & Irene Andrews Super Fund Pty Ltd
<b>Date of DA lodgement</b>	16 December 2016
<b>Number of Submissions</b>	11
<b>Recommendation</b>	Approval subject to the imposition of appropriate conditions.
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	The development has a capital investment value (CIV) of \$23,287,908
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Marrickville Local Environmental Plan 2011</li> <li>• Marrickville Development Control Plan 2011</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Clause 4.6 objection Plans
<b>Report prepared by</b>	Patrick Nash
<b>Report date</b>	14 November 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

File Ref: DA201600662

### **Synopsis**

This report concerns an application to demolish existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking.

The development has a capital investment value (CIV) of \$23,287,908. Applications with a CIV of more than \$20 million must be referred to the Sydney Central Planning Panel to exercise its consent authority functions under Schedule 4A of Environmental Planning and Assessment Act 1979.

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

In terms of key compliances, the building generally complies with the building height development standard (except for roof top structures) contained in Marrickville Local Environmental Plan 2011 (MLEP 2011) although the development does exceed the number of storeys control as contained in the Marrickville Development Control Plan 2011 (MDCP 2011) by one storey.

The floor space ratio (FSR) development standard applying to the site under MLEP 2011 is 1.75:1 and the proposal has an FSR of 2:1 (inclusive of 19 additional basement car parking spaces equivalent to 250sqm). The development amounts to a 5% departure from the height development standard and 14% departure from the FSR development standard.

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

There is an existing approval to erect a 9 storey residential flat building containing 64 dwellings and 3 levels of basement car parking on the subject site. That development, which was approved by the Sydney East Joint Regional Planning Panel (JRPP) on 24 March 2016, had an FSR of 1.95:1 and contained roof top structures (lift overrun) that exceeded the maximum height of building development standard.

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

The proposal will not result in any significant impacts on the streetscape or amenity of adjoining premises. The application is suitable for approval subject to the imposition of appropriate conditions.

### **PART A - PARTICULARS**

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



*Image 1: Location Map*

<b>D/A No:</b>	201600662
<b>Application Date:</b>	16 December 2016. Additional information submitted on 25 May 2017 and 17 July 2017
<b>Proposal:</b>	To demolish the existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking
<b>Estimated Cost:</b>	\$23,287,908
<b>Applicant:</b>	Peter & Irene Andrews Super Fund Pty Ltd
<b>Zoning:</b>	R1 - General Residential

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

<b>Improvements:</b>	A one storey masonry warehouse-style building(s) occupies the site, with a pitched metal roof and verandah structure to the east. The building is surrounded by concrete/bitumen at ground level, used for parking and vehicular manoeuvring. The site is generally devoid of trees and landscaping, except adjoining the north-eastern boundary, where a row of semi-mature conifer trees partially shield the building from view from Hill Street. A double-width concrete driveway services the site along the eastern boundary, for which there is a joint right-of-way with the adjoining site to the east, while a second double driveway services the site at the corner of Hill Street, adjoining the dwellings to the north-east at No 1-3 Hill Street. Electricity and water infrastructure traverse the site.
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*Image 2-4: The Site*

**Current Use:** Meat processing (Andrews Meat Industries)

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

Development Consent No. 13524, dated 8 February 1991, to carry out alterations and additions to the existing meat boning and packing factory. (This consent was never acted upon.)

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

prepared meat and processing of meat related products together with the wholesaling and retailing of meat.

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

Determination No. 201500246, dated 4 April 2017, granted deferred commencement consent to demolish the existing improvements and construct a 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking with associated landscaping works. A subsequent section 96 application was submitted but eventually withdrawn by the applicant.

**Environment:**

The site is part of a Masterplan site which is currently being developed, generally ranging from 4 to 8 storeys (surrounding the site to the east and south).

The adjoining development at 6-26 Grove Street and 60-64 Constitution Road that is currently under construction contains 249 dwellings across 4 buildings. The site known as 66 Constitution Road is also in the process of being redeveloped to contain a 6 storey residential flat building containing 15 dwellings, while there is an approval at 62 Constitution Road to erect a 6 part 7 storey shop top housing development comprising two commercial tenancies and 13 dwellings.

The wider nature of the surrounding area and development along Hill Street is low scale residential, with occasional interspersed flat buildings and light industrial uses in the surrounding area. The light rail corridor adjoins the site to the west. The zoning and planning controls applying to the site and surrounds have resulted in a transition in the nature of the built environment from light industrial/warehousing interspersed with residential uses to predominantly residential.

### **PART C - REQUIREMENTS**

- |                           |  |                 |                 |                 |                           |           |             |                         |        |     |  |
|---------------------------|--|-----------------|-----------------|-----------------|---------------------------|-----------|-------------|-------------------------|--------|-----|--|
| <b>1</b>                  | <b>Zoning</b><br><i>Is the proposal permissible under zoning provisions?</i>   | Yes             |                 |                 |                           |           |             |                         |        |     |  |
| <b>2</b>                  | <b>Development Standards (Statutory Requirements):</b>   |                 |                 |                 |                           |           |             |                         |        |     |  |
|                           | <table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"><b>Type</b></td> <td style="width: 30%;"><b>Required</b></td> <td style="width: 40%; text-align: right;"><b>Proposed</b></td> </tr> <tr> <td>Height of Buildings (max)</td> <td>29 metres</td> <td style="text-align: right;">30.6 metres</td> </tr> <tr> <td>Floor Space Ratio (max)</td> <td>1.75:1</td> <td style="text-align: right;">2:1</td> </tr> </table> | <b>Type</b>     | <b>Required</b> | <b>Proposed</b> | Height of Buildings (max) | 29 metres | 30.6 metres | Floor Space Ratio (max) | 1.75:1 | 2:1 |  |
| <b>Type</b>               | <b>Required</b>  | <b>Proposed</b> |                 |                 |                           |           |             |                         |        |     |  |
| Height of Buildings (max) | 29 metres  | 30.6 metres     |                 |                 |                           |           |             |                         |        |     |  |
| Floor Space Ratio (max)   | 1.75:1   | 2:1             |                 |                 |                           |           |             |                         |        |     |  |
| <b>3</b>                  | <b>Departures from Development Control Plan:</b>   |                 |                 |                 |                           |           |             |                         |        |     |  |
|                           | <table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"><b>Type</b></td> <td style="width: 30%;"><b>Required</b></td> <td style="width: 40%; text-align: right;"><b>Proposed</b></td> </tr> <tr> <td>Number of storeys</td> <td>8</td> <td style="text-align: right;">9</td> </tr> <tr> <td>Accessible dwellings</td> <td>15</td> <td style="text-align: right;">14</td> </tr> </table>                                   | <b>Type</b>     | <b>Required</b> | <b>Proposed</b> | Number of storeys         | 8         | 9           | Accessible dwellings    | 15     | 14  |  |
| <b>Type</b>               | <b>Required</b>  | <b>Proposed</b> |                 |                 |                           |           |             |                         |        |     |  |
| Number of storeys         | 8  | 9               |                 |                 |                           |           |             |                         |        |     |  |
| Accessible dwellings      | 15   | 14              |                 |                 |                           |           |             |                         |        |     |  |
| <b>4</b>                  | <b>Community Consultation:</b>   |                 |                 |                 |                           |           |             |                         |        |     |  |
|                           | Required: Yes (newspaper advertisement, on site notice and resident notification)  |                 |                 |                 |                           |           |             |                         |        |     |  |
|                           | Submissions: 11 submissions  |                 |                 |                 |                           |           |             |                         |        |     |  |
| <b>5</b>                  | <b>Other Requirements:</b>   |                 |                 |                 |                           |           |             |                         |        |     |  |
|                           | ANEF 2033 Affectation:   | <20 ANEF        |                 |                 |                           |           |             |                         |        |     |  |

Marrickville Section 94/94A Contributions Plan 2014  
State Environmental Planning Policy (State and Regional Development) 2011  
State Environmental Planning Policy No.55 – Remediation of Land  
State Environmental Planning Policy (Infrastructure) 2007  
State Environmental Planning Policy (BASIX) 2004  
State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development  
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

## **PART D - ASSESSMENT**

### **1. Background**

At its meeting on 24 March 2016 the Sydney East Joint Regional Planning Panel (JRPP) approved a development application on the subject site to demolish the existing improvements, and construct a 9 storey residential flat building with 64 dwellings and 3 levels of basement car parking with associated landscaping works.

The Panel approved the application for the following reasons:

- 1. The proposal is consistent with the Masterplan in Marrickville DCP 2011, which applies to this site.*
- 2. The proposal is consistent with the desired future character of the area.*
- 3. The variations in height and FSR have been justified pursuant to cl 4.6 of the Marrickville LEP 2011. As concerns height, the council has allowed on other development applications the lift overrun to exceed the maximum building height; thus the development standard has not been consistently enforced in the past. As concerns the variation of the FSR, the other buildings in the Masterplan have been given consent for an FSR of 2:1 despite the FSR in MLEP 2011 being 1.7:1. The FSR of this application is 1.95:1. Consequently this development standard has also not been enforced.*

A subsequent section 96(2) application was submitted with Council but was eventually withdrawn by the applicant prior to it being determined.

### **2. The Site and Surrounds**

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

The Masterplan area is undergoing a transition that was instigated / associated with the light rail corridor with the former industrial sites being redeveloped to higher density residential development.

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

To the immediate south and east of the site is a development site known as 6-26 Grove Street and 60-64 Constitution Road Dulwich Hill. This is a “Masterplan” site (as for the subject site) which is

undergoing development in accordance with Determination No. 2013000375, granted on 20 June 2014 by the JRPP.

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

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

To the north-east across the light rail corridor is the former Waratah Flour Mills residential development.

### **3. The Proposal**

Approval is sought to demolish the existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking.

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

During the assessment of the application amended plans were submitted to Council. The following changes were made:

- Additional car parking spaces provided within the basement levels;
- Enlarged waste collection area and external hardstand for garbage collection;
- Modified location of the core (lift and fire stairs) to provide better visual connection on the ground floor plan;
- Increased width of the balcony planter beds; and
- Relocation of the children’s play area on the southern side of the site.

The amended development is further summarised as follows:

#### Basement Levels 1 - 3

- A total of 96 car parking spaces comprised of 71 residential spaces, 15 accessible resident spaces, 6 accessible visitor spaces and 4 accessible visitor spaces;
- 5 motorcycle spaces;
- Bicycle storage spaces;
- Loading area;
- Garbage chute and associated facilities;
- Storage areas; and
- Lift, fire stairs and services.

#### Ground Floor Level

- Vehicular access and ramp to basement;
- Landscaping works and communal open space areas;
- Greenway link at the western end of the site adjacent to the light rail corridor;
- 4x1 bedroom dwellings; and
- 4x2 bedroom dwellings.

#### Levels 1, 2 and 3

- 9x1 bedroom dwellings; and



- 18x 2 bedroom dwellings.

#### Levels 4, 5, 6 and 7

- 8x1 bedroom dwellings;
- 5x2 bedroom dwellings; and
- 4x4 bedroom dwellings.

#### Level 8

- 4x3 bedroom dwellings.

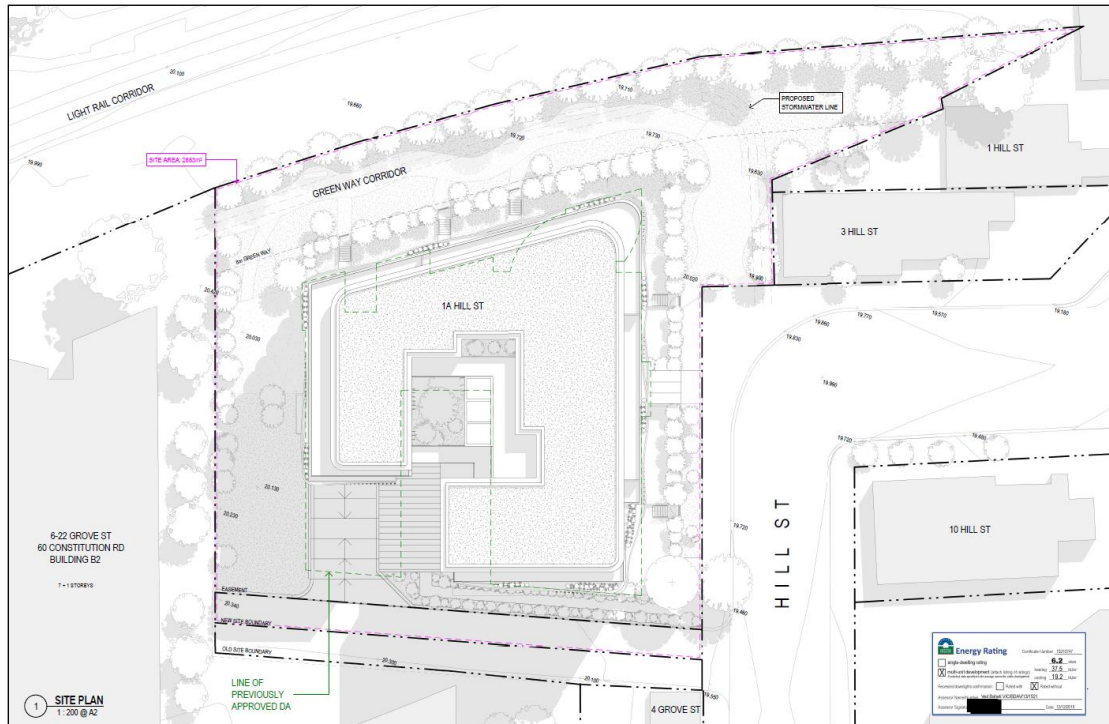
The development provides a total of 21x1 bedroom dwellings, 42x2 bedroom dwellings and 8x3 bedroom dwellings. There are no studios proposed.

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

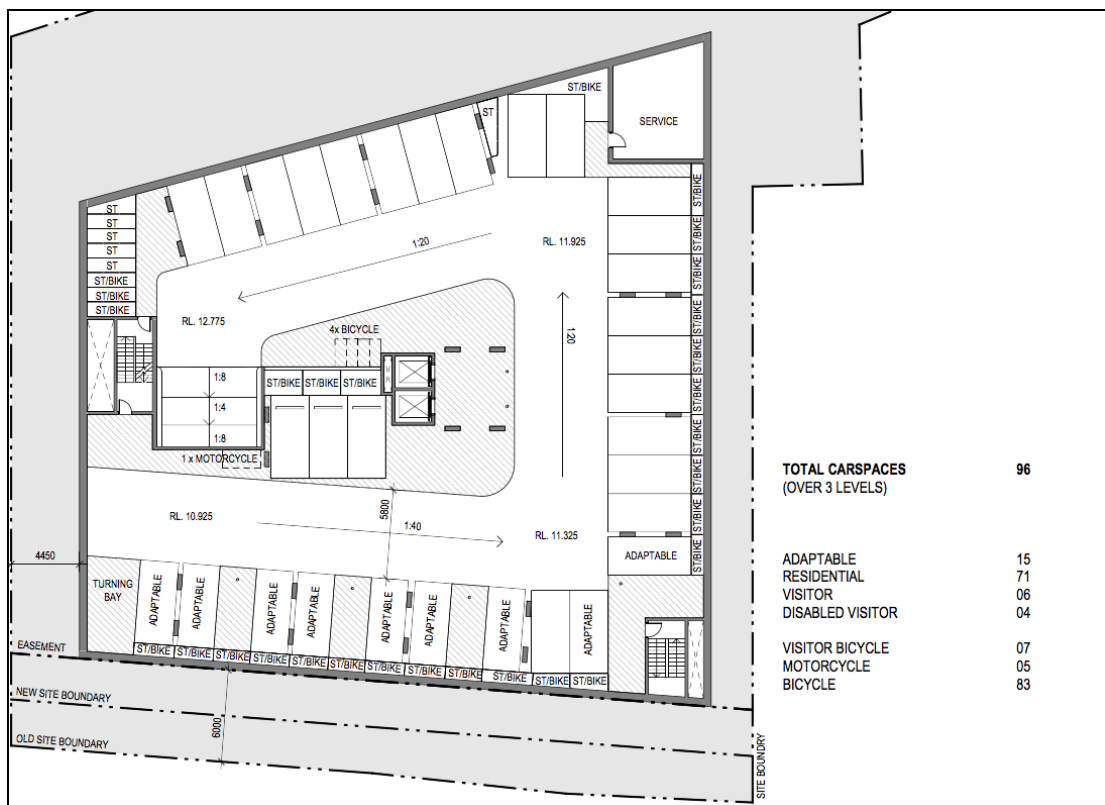


*Image 5: Photomontage*

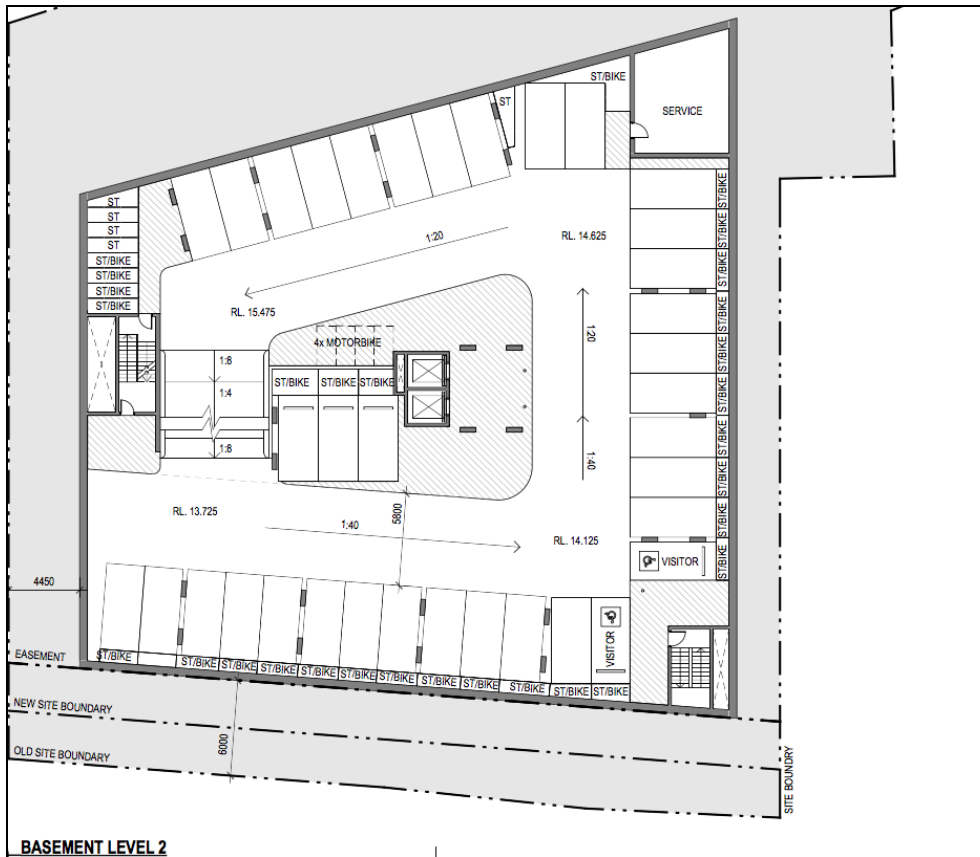




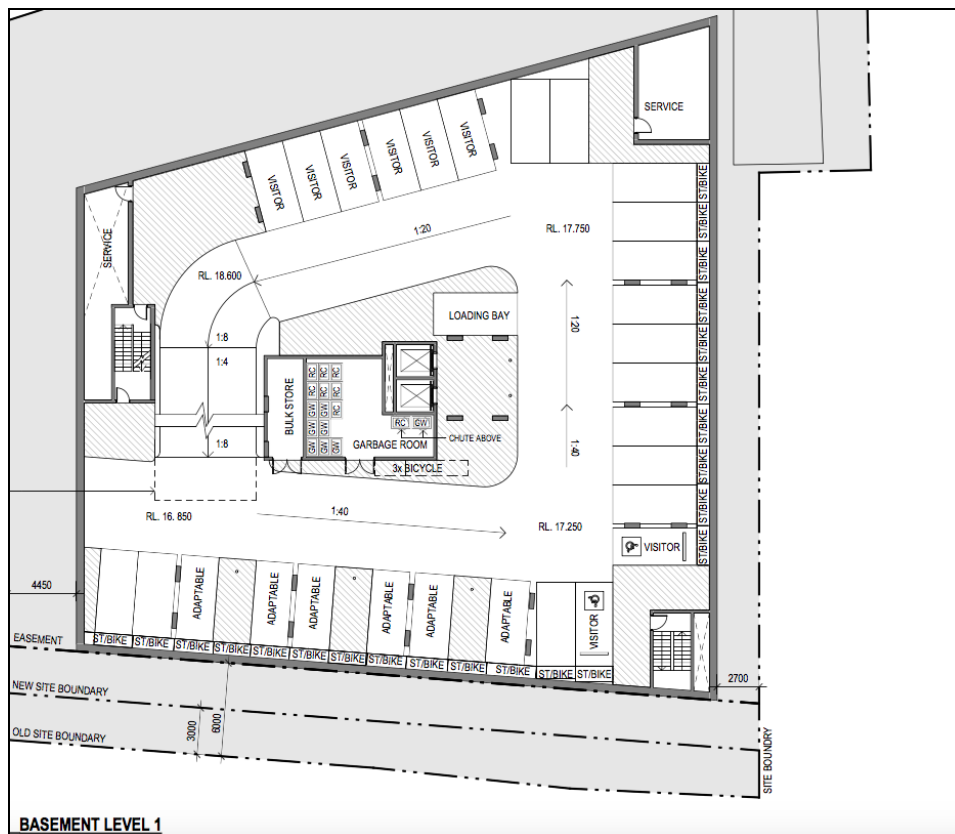
*Image 6: Site Plan*



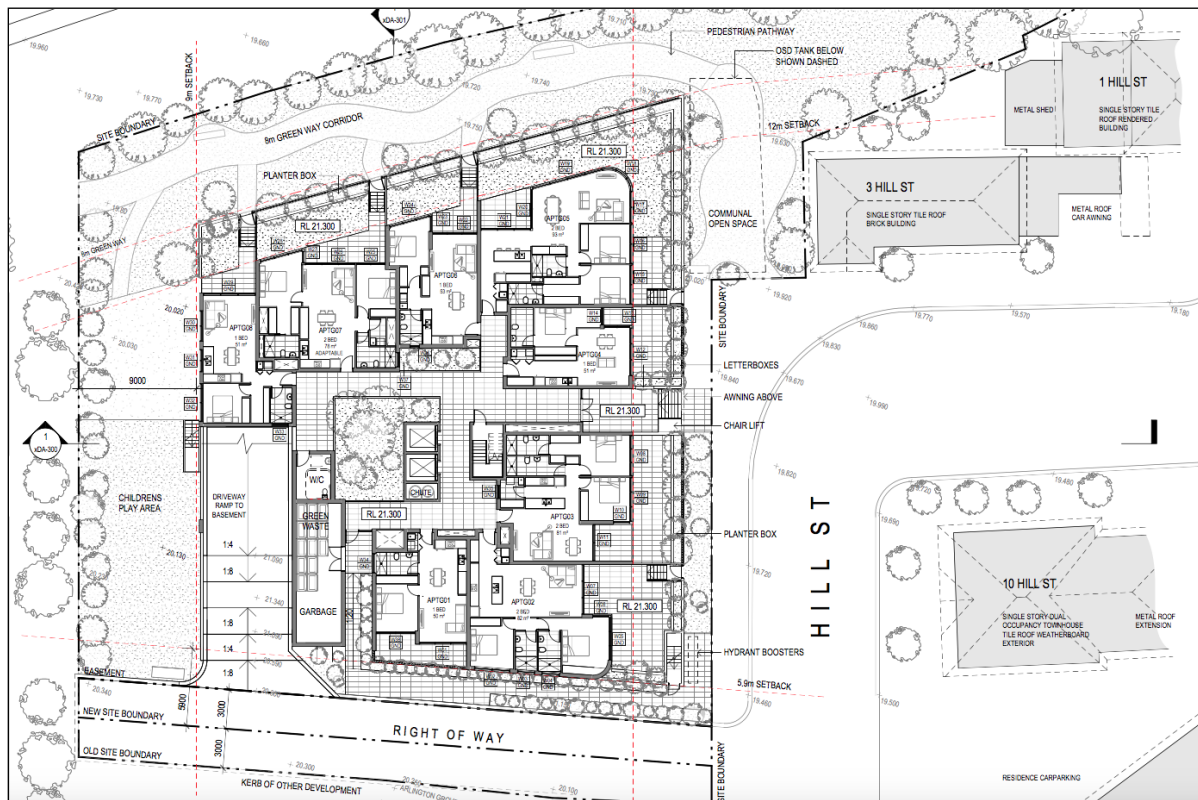
*Image 7: Basement Level 3*



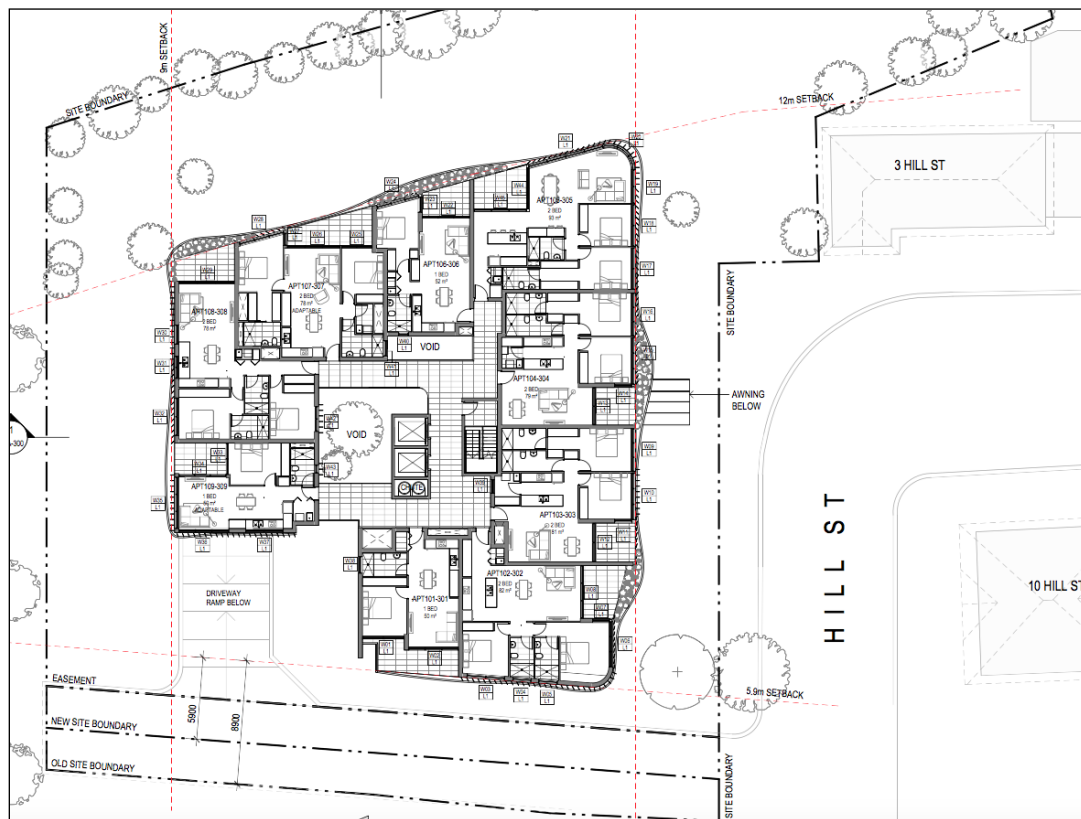
*Image 8: Basement Level 2*



*Image 9: Basement Level 1*



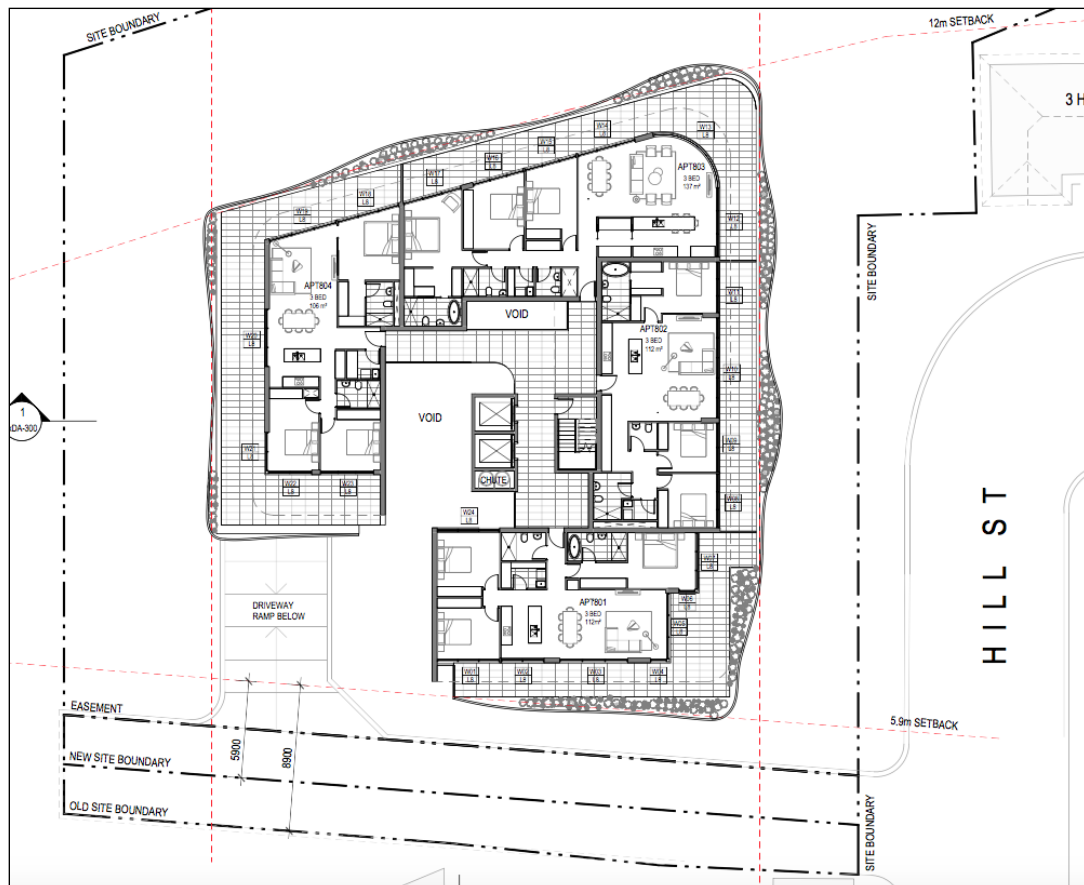
*Image 10: Ground Level*



*Image 11: Level 1 – 3 (typical)*



*Image 12: Level 4 – 7 (typical)*



*Image 13: Level 8*



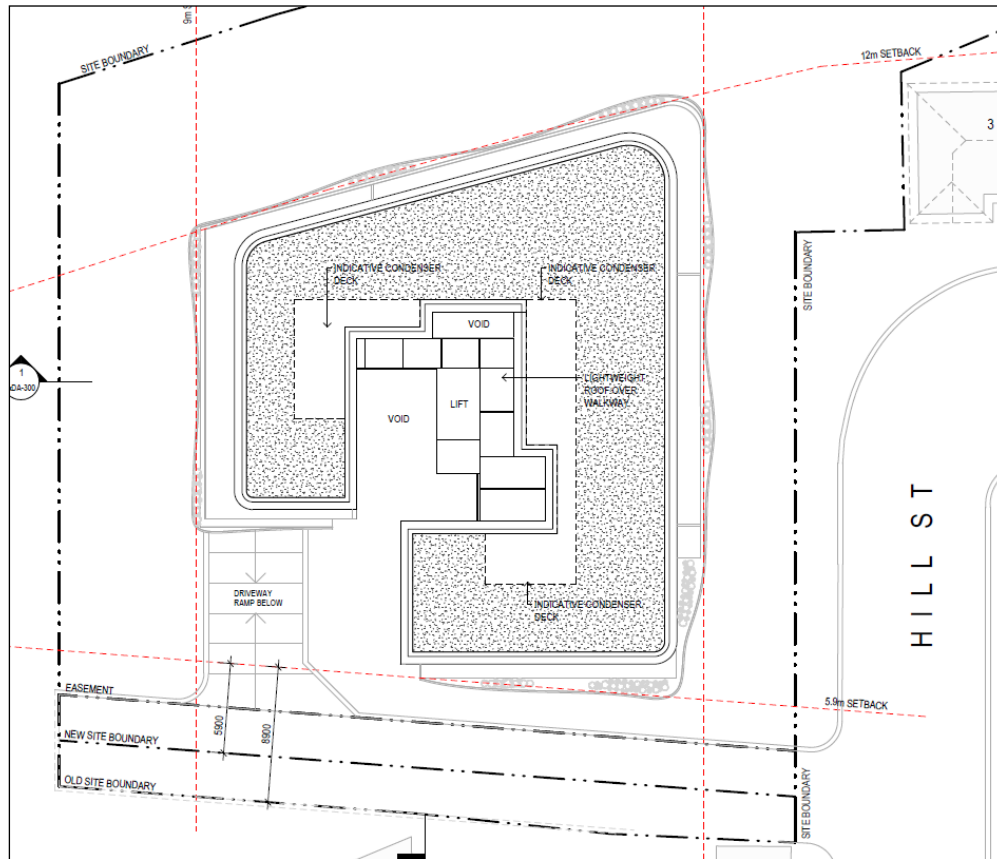


Image 14: Roof



Image 15: North East Elevation (Hill Street)



*Image 16: North West Elevation*



*Image 17: South West Elevation*



*Image 18: South East Elevation*



*Image 19: Section A*

#### 4. Sydney Water Act 1994

The land contains a water supply pipe owned by Sydney Water and protected by easement. Correspondence was received from Sydney Water advising that the required stormwater asset deviation proposal is acceptable.



## 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.

A Stage 1 and Stage 2 Environmental Site Assessment has been prepared for the site. A subsequent Remediation Action Plan has been prepared and submitted to Council. This was reviewed by Council's Environmental Services Section who raise no concerns in this respect.

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

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).

### Comment

The proposal provides approximately 40% of the site area as communal open space which achieves a compliant amount of solar access.

### Deep Soil Zones

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

Site Area	Minimum Dimensions	Deep Soil Zone (% 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	

### Comment

The proposal provides approximately 51% of the site as deep soil landscaping, well exceeding the minimum requirement.

### 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

### Comment

The building is setback 9 metres from the southern boundary in accordance with ADG requirements. The building to the south on the adjoining site (6-26 Grove Street) has been approved with a minimum setback of approximately 6 metres from the subject boundary. However, the dwellings on levels 5 to 8 of that building (where they directly adjoin the proposed development) are setback 9 metres from the common boundary thereby providing the recommended separation distance.

It is further assessed that:

- The 9 metre setback provided to the southern boundary is consistent with the MDCP 2011; and
- The proposal results in acceptable overshadowing (complying with the MDCP 2011) for the northern face of the adjoining approved proximate building. It is noted that a

comparison of the current scheme vs the approved development on the subject site has been undertaken. The current scheme provides improved solar access for the approved building that adjoins the site to the south. This is because some of the mass within the proposed development has been shifted off the south-western elevation.

### 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.

### **Comment**

60 out of 71 units (84%) receive more than 2 hours solar access in accordance with the ADG requirements.

### 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.

### **Comment**

All of the apartments are naturally cross ventilated.

### Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope
If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use

### **Comment**

The development provides 3.1 metres floor to floor heights to ensure that a compliant floor to ceiling height can be achieved.

### 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>

All of the proposed apartments comply with the minimum internal areas stated above.

#### Apartment Layout

The proposed development is generally compliant with the apartment layout guidelines within the ADG.

#### 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

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3 metres.

#### **Comment**

The development is compliant with the private open space and balcony controls with the exception of the following:

- Apartment G01 on the ground floor is not provided with a compliant sized open space area. This apartment is provided with a balcony that is approximately 13.5m<sup>2</sup>. There is landscaping treatment adjacent to the space where it fronts a common walk way. Given the low occupancy rate of this apartment, being a 1 bedroom dwelling, this variation is considered to be minor and acceptable; and
- Apartments 102-302, 103-303, 104-304, 402-702 and 403-703 402 are all approximately 1 to 2m<sup>2</sup> below the 10m<sup>2</sup> minimum, noting that all these apartments contain 2 bedrooms. Apartments 106, 206 and 306 are all approximately 0.8m<sup>2</sup> below the 8m<sup>2</sup> minimum, noting that these apartments contain 1 bedroom. These figures do not include the area of the planter beds, where proposed.

The extent of the variation is not significant and all of these balconies are accessed off living areas and contain useable proportions for future occupants. Furthermore, the development provides extensive (i.e. – 40% of the site area) communal open space at ground level, providing an additional area of passive recreation.

#### 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.

**Comment**

The proposed development is compliant with the above with the exception of levels 1, 2 and 3 wherein there are 9 apartments proposed off one circulation core. This variation is supported given that the extent of the non-compliance is minor (1 apartment) and there are 2 lifts proposed in the building.

**Storage**

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

<b>Apartment Type</b>	<b>Minimum Internal Area</b>
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.

**Comment**

Adequate storage facilities are provided within the basement levels.

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

A BASIX Certificate was submitted with the application indicating that 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**

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

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

An acoustic report was submitted with the application which confirms that the proposal is capable of complying with the noise reduction requirements prescribed by Clause 87 of the SEPP.

**9. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection/removal of vegetation identified under the SEPP.



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

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

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

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

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

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

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

##### **(ii) Demolition (Clause 2.7)**

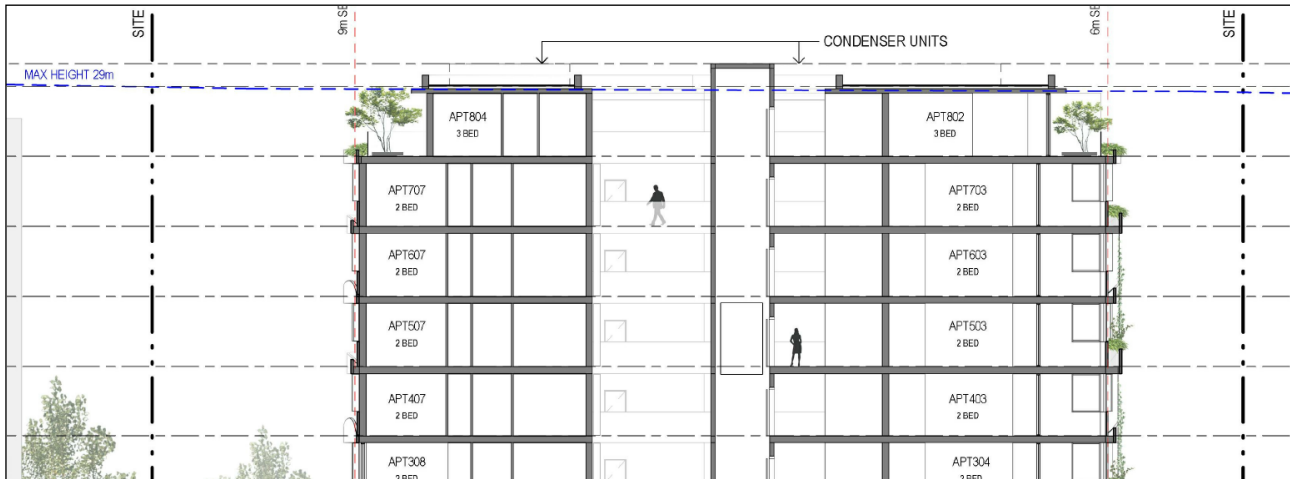
Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

##### **(iii) Height (Clause 4.3)**

A maximum building height of 29 metres applies to the land under MLEP 2011. The development has a maximum building height of 30.2 metres which does not comply with the development standard.

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application.

The extent of the non-compliance is illustrated in the section extract drawing below:



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

- The proposed maximum height (and predominant height/envelope) is the same as that already approved on the site under DA 2015/246;
- The proposed built form is not dissimilar to other buildings in the surrounding locality;
- The predominant building envelope complies with the standard;
- Those elements (lift overrun/parapet) that depart from the standard do not materially add to the building's height, bulk and scale and account for approximately only 5% of the building footprint;
- All habitable accommodation is contained below the 29 metre height standard;
- The overall design sits comfortably within the established and likely future built form context;
- The height proposed produces a building of similar scale and appearance of adjacent development;
- The height, bulk and scale of the apartment building will not set an undue precedent;
- It has been demonstrated that the proposal will not result in any material environmental impacts to the adjoining and adjacent properties, particularly in terms of overshadowing, aural and visual privacy, solar access and natural ventilation, and views and vistas;
- It will permit the redevelopment of the site to facilitate a use which is predominantly in accordance with that already approved on the site under DA 2015/246;
- The proposed built form sits comfortably within its established and likely future built form context;
- There is no visual built form dominance as substantial landscape areas are provided in excess of that technically required;
- The height of the building does not preclude redevelopment of the adjacent properties; and
- The proposal exhibits design excellence.

The justification provided in the applicant's written submission is considered to be well founded and worthy of support. It is considered that there are sufficient environmental planning grounds as to why the maximum height of building 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], *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386.

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

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

(iv) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1.75:1 (5,045.25m<sup>2</sup>) applies to the development under MLEP 2011. The development has a gross floor area (GFA) of 5,522.5 m<sup>2</sup> which equates to a FSR of 1.91:1, which does not comply with the development standard. This represents a variation of 477.25m<sup>2</sup> or 9.4%.

The development has an additional 250m<sup>2</sup> of GFA when including the 19 basement car parking spaces that are beyond the DCP parking requirements and therefore are included as gross floor area calculations. This would equate to an FSR of 2:1. The additional car parking spaces are considered to be acceptable given that they are within the basement, do not add any bulk and scale to the building and numerous submissions received raise concerns with the availability of car parking in the surrounding area.

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.

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

- The proposed above ground level FSR is the same as that already approved on the site by the JRPP under DA201500246;
- The proposed built form is not dissimilar to other buildings in the surrounding locality;
- The overall design sits comfortably within the established and likely future built form context;
- It has been demonstrated that the proposal will not result in any material environmental impacts to the adjoining and adjacent properties, particularly in terms of overshadowing, aural and visual privacy, solar access and natural ventilation, and views and vistas;
- The proposal is consistent with the objectives of the zone and the objectives of the FSR development standard within MLEP 2011;
- Less building form is proposed adjacent to the southern boundary than that approved under DA201500246. Further, additional landscaping is proposed (more than that approved under DA201500246) which reduces the perception of built form dominance;
- The visual catchment contains several buildings that will present a similar or greater bulk and scale and will set the character to a large degree. Consequently, the non-compliance does not result in a building scale that is out of character with the surrounding development and emerging character; and
- A compliant site coverage is proposed.

The justification provided in the applicant's written submission is considered to be well founded and worthy of support. 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], *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386.

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

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

(v) Heritage Conservation (Clause 5.10)

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

(vi) Earthworks (Clause 6.2)

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

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

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

(vii) Flood Planning (Clause 6.3)

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

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

(viii) Terrestrial Biodiversity (Clause 6.4)

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

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

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

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

The land is located within the < 20 Australian Noise Exposure Forecast (2033) Contour. However, the applicant has submitted an acoustic report to protect the building against aircraft noise despite having no statutory obligation to do so. Notwithstanding, the proposal is required to achieve adequate attenuation in accordance with the requirements prescribed by the Infrastructure SEPP,



and appropriate conditions are included in the recommendation to ensure the requirements recommended within the Acoustic Report are incorporated into the development.

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

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

### **PART 2 – GENERIC PROVISIONS**

#### **(i) Site and Context Analysis (Part 2.3)**

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

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

In accordance with Part 2.5 of MDCP 2011, the development would require a minimum of 15 adaptable dwellings, 15 accessible resident parking spaces and 4 accessible visitor parking spaces. In addition, all areas of the development are required to be accessible by persons with a disability. The proposal complies with these requirements with the exception of the total number of accessible dwellings provided (14 proposed). Appropriate conditions have been included in the recommendation to ensure compliance.

#### **(iii) Acoustic and Visual Privacy (Part 2.6)**

The applicant considers acoustic and visual privacy to be well resolved for the following reasons which are generally concurred with:

- Separation distances comply with that required and are like that already approved under DA201500246;
- The built form envelope proposed adjacent the southern boundary is less than that already approved under DA201500246;
- The resultant building height and density is the same as that already approved on the site under DA201500246 and is less than that approved and under construction on the adjacent property;
- The building alignment is consistent with that envisaged in the Hoskins Park precinct;
- Location, orientation and design of openings to avoid the incidence of direct overlooking between the site and those adjoining and adjacent; lack of openings along the entire southern elevation;
- Provision of retaining walls, blade walls, glazing; and window design, privacy screens, sliding louvre;
- Appropriate orientation of primary living rooms; and
- Proposed landscaping (trees, shrubs, hedges, planter boxes and climbers) around the perimeter and within the site, and in particular the greenway corridor.

The privacy impacts are created primarily by the building proximity and the relative densities permitted. While there will be a degree of mutual overlooking, due to the above design measures, it is considered the proposal will not increase this mutual overlooking to an unacceptable level.

#### **(iv) Solar Access and Overshadowing (Part 2.7)**

##### *Overshadowing*

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

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

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

(v) Social Impact Assessment (Part 2.8)

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

The development satisfies Part 2.8 of MDCP 2011.

(vi) Community Safety (Part 2.9)

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

(vii) Parking (Part 2.10)

The site is located in Parking Area 2 under Part 2.10 of MDCP 2011. The following car parking rates apply:

***Residential - Non-Adaptable***

- 0.5 per 1 bedroom unit
- 1 space per 2 bedroom unit
- 1.2 spaces per 3 bedroom unit
- 1 space per 10 units for visitors

***Residential – Adaptable***

- 1 space per unit
- 1 visitor space per 4 adaptable car parking space

In totality, the development is required to provide 58 residential non-adaptable spaces (6 of which are visitor spaces) and 19 residential adaptable spaces (4 of which are visitor spaces). The total required is therefore 77 car spaces.

The proposal complies with the car parking requirements as it provides 77 residential non-adaptable spaces (6 of which are visitor spaces) and 19 residential adaptable spaces (4 of which are visitor spaces). There is therefore a total of 96 car parking spaces proposed, which exceeds the DCP requirement by 19 spaces. Given that the site is not within the B2 – Local Centre or B4 – Mixed Use zone wherein one of the zone objectives is “to constrain parking and restrict car use”, the additional car parking spaces proposed are supported. In addition, throughout the submissions there is consistent reference to the poor availability of parking for residents in this area. Accordingly, the additional spaces provided would assist in addressing these concerns.

(viii) Water Sensitive Urban Design (Part 2.17)

Part 2.17 of MDCP 2011 contains objectives and controls relating to Water Sensitive Urban Design (WSUD) including requirements for new residential developments such as proposed.

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

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

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

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

**Part 4 - RESIDENTIAL DEVELOPMENT**

**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 unit mix requirements for residential flat buildings containing 6 or more dwellings:

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

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

The development includes 21 x 1 bedroom dwellings (29%), 42 x 2 bedroom dwellings (59%) and 8 x 3 bedroom dwellings (11%) which complies with the abovementioned unit mix requirements, with the exception of studio apartments. Given the very minor non-compliance, the proposed unit mix is considered acceptable, with a good variety of unit types. The development is acceptable having regard to Part 4.2.3.

(ii) Built Form and Character (Part 4.2.4)

4.2.1.1 Floor Space Ratio and Site Coverage

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

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

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

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

The site coverage for this proposal, measured in accordance with the above, equates to 32% of the site area which generally complies with the above requirement. The site coverage is considered acceptable.

#### 4.2.4.2 Building Setbacks

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

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

The development is considered acceptable with regards to the streetscape design parameters under Part 4.2.5 of MDCP 2011. The external finishes are proposed to comprise of:

- Rendered concrete white and charcoal grey paint finish
- Zinc anthracite coloured metal cladding
- Concrete walls
- Steel blades with charcoal power coat finish
- Aluminium framed windows
- Operable vertical metal louvre bronze colour finish
- Wire planter system along the façade
- Glass and rendered balustrades

The above materials are considered to be contemporary and promote an acceptable level of design quality.

### **PART 9 – STRATEGIC CONTEXT**

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

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

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

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

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

The proposed development provides significant landscaping and a pedestrian path within the GreenWay corridor that is adjacent to the light rail line. The design of this component of the development satisfies the relevant controls contained within Part 9.11.4 of MDCP 2011.

## **12. Marrickville Section 94/94A Contributions Plan 2014**

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,280,390.54 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.

### **13. Community Consultation**

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. 11 submissions were received raising the following concerns which have already been discussed throughout the main body of this report:

- (i) Height;
- (ii) Scale and density;
- (iii) Impact on local traffic and parking;
- (iv) Overshadowing;
- (v) Visual privacy;
- (vi) Compliance with GreenWay corridor DCP controls;
- (vii) Non-compliance with masterplan;
- (viii) Non-compliance with Part 2.5 of MDCP 2011 concerning accessibility;
- (ix) Proposal does not satisfy aircraft noise requirements;
- (x) Insufficient building setbacks;
- (xi) Lack of detail regarding social impacts;
- (xii) Insufficient solar access for proposed apartments;
- (xiii) Storage requirements;
- (xiv) Contamination;
- (xv) Fails to comply with SEPP 65;
- (xvi) External finishes;
- (xvii) Adaptable units;

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

- (i) Acoustic privacy

#### Comment:

Concern has been raised with acoustic privacy as a result of construction noise. It has been requested that standard construction hours should apply. Council's standard condition regarding constructions hours has been included in the recommended conditions.

- (ii) No social housing unit provision in the development

#### Comment:

The developer is not mandated to provide social housing within the development.

- (iii) Site coverage calculation is incorrect

#### Comment:

The comment is concurred with. The site coverage has been re-calculated in accordance with the relevant definition and it remains compliant.

- (iv) Balcony planter boxes are too narrow

#### Comment:



The width of the proposed planter boxes have been increased in the amended plan submission.

(v) View loss of the Johnson Park tree line

Comment:

The views in question are more akin to an 'outlook' towards trees. In any case, the proposed development sits within a compliant building envelope, albeit with a minor building height variation. The visual intrusion caused is therefore an expected outcome under the relevant planning controls.

(vi) Fire stairs and travel distances

Comment:

These matters are to be assessed at construction certificate change. Design changes could be accommodated within a section 96 modification application if so required.

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.

The amended plans submitted to Council were not required to be re-notified in accordance with MDCP 2011 because the development would result in similar/lesser impacts for surrounding properties and/or the streetscape when compared to the original development that was notified.

#### 14. Conclusion

This development applications seeks consent to demolish the existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking. The heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Plan 2011 with the exception of the building height and floor space ratio development standards. The variations proposed to those development standards have been well justified in the site circumstances and are supported.

The proposal will not result in any unreasonable impacts on the streetscape or the amenity of surrounding premises. The application is suitable for approval subject to the imposition of appropriate conditions.

### **PART E - RECOMMENDATION**

- A. **THAT** the development application to demolish the existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking 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	Submitted Date
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DA-011 Rev B	Site Plan	11/7/17	Squillace	17 July 2017
DA-012 Rev B	Demolition Plan	11/7/17	Squillace	17 July 2017
DA-097 Rev B	Basement Level 3	11/7/17	Squillace	17 July 2017
DA-098 Rev B	Basement Level 2	11/7/17	Squillace	17 July 2017
DA-099 Rev B	Basement Level 1	11/7/17	Squillace	17 July 2017
DA-100 Rev C	Ground Floor Plan	11/7/17	Squillace	17 July 2017
DA-101 Rev B	Levels 1 – 3 Typical	11/7/17	Squillace	17 July 2017
DA-102 Rev C	Levels 4 – 7 Typical	11/7/17	Squillace	17 July 2017
DA-103 Rev B	Level 8	11/7/17	Squillace	17 July 2017
DA-104 Rev B	Roof	11/7/17	Squillace	17 July 2017
DA-200 Rev B	North East Elevation (Hill St)	11/7/17	Squillace	17 July 2017
DA-201 Rev B	North West Elevation	11/7/17	Squillace	17 July 2017
DA-202 Rev B	South West Elevation	11/7/17	Squillace	17 July 2017
DA-203 Rev B	South East Elevation	11/7/17	Squillace	17 July 2017
DA-300 Rev B	Section A	11/7/17	Squillace	17 July 2017
DA-301 Rev B	Section B	11/7/17	Squillace	17 July 2017
DA-700 Rev B	Streetscape + AEP + Section	11/7/17	Squillace	17 July 2017
DA-701 Rev B	Section AEP	11/7/17	Squillace	17 July 2017
Certificate number 778865M_02	BASIX Certificate	13 July 2017	Outsource Ideas P/L	17 July 2017
Sheet 1 of 2	Landscape Concept Plan	5 December 2016	Paul Scrivener	16 December 2017
Sheet 2 of 2	Planting Concept Plan & Details	5 December 2016	Paul Scrivener	16 December 2017
Project number 16108	Remediation Action	1 March 2017	Zoic Environmental	16 March 2017
Report No.5462- 3.1R	Acoustic report	2 December 2016	Day Design Pty Ltd	16 December 2017

and details submitted to Council on 16 December 2016, 25 May 2017 and 17 July 2017 with the application for development consent and as amended by the following conditions.

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

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

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

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

3. 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.

4. 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.

The amended plans, including the endorsement of Sydney Trains, must be submitted to and approved by Council before the lodgement of any Construction Certificate. Any changes to the approved balconies must not add to the gross floor area / floor space ratio of the approved development. Accordingly it is recommended that a wire trellis be added to the affected balconies as per the adjoining development under construction at 6-26 Grove Street.

Reason: To ensure compliance with Sydney Trains concurrence terms.

5. The stormwater deviation shall be undertaken in accordance with Sydney Water's requirements and the following concept drawings approved by Sydney Water:

- Case No 148994SW Version 05 Dated 23/05/17 (Sheet 1 of 6)
- Case No 148994SW Version 05 Dated 23/05/17 (Sheet 2 of 6)

Reason: To ensure the development is carried out in accordance with Sydney Water's requirements.

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

- Geotechnical Investigation by Douglas Partners - Report No. 84398.01.R.002.Rev0 dated July 2015.
- Structural Drawings prepared by Structural Design Solutions, as follows:
  - (i) Structural Notes, S1.00 – Revision 1, dated 26/07/17
  - (ii) Shoring & Bulk Excavation Plan, S.1.01 – Revision 3, dated 10/09/17
  - (iii) Shoring Sections, S1.05 – Revision 3, dated 15/06/17
  - (iv) Shoring Details – Typical, S1.07 – Revision 1, dated 12/04/17
  - (v) Shoring to Slab, S1.08 – Revision 2, dated, 10/09/17
  - (vi) Footing Plan, S2.00 – Revision 1, dated 26/07/17
  - (vii) Footing Details Sheet 1, S2.01 – Revision 1, dated 26/07/17
  - (viii) Footing Details Sheet 2, S2.02 – Revision 1, dated 26/07/17
  - (ix) Column Detail Sheet 1, S3.01 – Revision 1, dated 26/07/17

- (x) Column Detail Sheet 2, S3.02 – Revision 1, dated 26/07/17
- (xi) Column Detail Sheet 3, S3.03 – Revision 1, dated 26/07/17
- (xii) Column Detail Sheet 2, S4.00 – Revision 1, dated 26/07/17
- (xiii) Column Detail Sheet 2, S4.01 – Revision 1, dated 26/07/17
- (xiv) Insitu Wall Detail Sheet, S4.02 – Revision 1, dated 26/07/17
- (xv) Dintel Wall Detail Sheet 1, S4.03 – Revision 1, dated 26/07/17
- (xvi) Dintel Wall Detail Sheet 2, S4.04 – Revision 2, dated 10/09/17
- (xvii) Basement B3 General Arrangement Plan, S6.00 – Revision 1, dated 26/07/17
- (xviii) Basement B2 General Arrangement Plan, S6.01 – Revision 1, dated 26/07/17
- (xix) Basement B1 General Arrangement Plan, S6.02 – Revision 1, dated 26/07/17
- (xx) Ground General Arrangement Plan, S6.03 – Revision 1, dated 26/07/17
- (xxi) Level 1 to 8 General Arrangement Plan, S6.04 – Revision 1, dated 26/07/17

- Survey Monitoring Plan by JK Geotechnics - Report No. 30489ZNRpt2 dated 14 June 2017.
- Report on Prediction of Ground Movements under Rail Corridor by JK Geotechnics - Report No. 30489ZNRptFEA dated 14 June 2017.
- Design Summary by Structural Design Solutions – Revision 2.0 dated 10 September 2017.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply or are superseded as a result of the compliance with the Sydney Trains related conditions of consent. The measures detailed in the documents approved/ certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

Reason: To ensure compliance with Sydney Trains concurrence terms.

7. a) The approved landscape plan listed in condition 1 shall be updated to be consistent with the architectural drawings with respect to the location of children's play area and the hardstand area on the eastern side of the building for bin collection with plans to be submitted to the satisfaction of Council before the issue of a Construction Certificate.
- b) Plant species for landscaping along the eastern boundary should be selected from the list of recommended local, native species in relevant GreenWay biodiversity and bush care guidelines. These available on the GreenWay website [www.greenway.org.au](http://www.greenway.org.au).

Reason: Plan consistency.

8. Landscaping of the site is required to consist of 90% local native plants, including a dense grassy understorey with shrub layer and associated canopy that utilises a diverse and representative range of species. Prior to the issue of a Construction Certificate a final Landscape Plan must be reviewed and approved by Council's Urban Ecology team.

*Note: Further information on relevant species can be found in the GreenWay Revegetation Plan 2011 (attached) and Council's DCP 2.18 – Landscaping and open spaces p11).*

Reason: To ensure that provision of foraging opportunities and habitat.

9. 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.

10. Site remediation works being carried out for the site in accordance with Detailed Site Investigation Report and Remediation Action Plan. Once these works have been carried out a validation report is to be submitted to Council prepared in accordance with the



requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites to Council's satisfaction.

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

11. 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.

12. A minimum of 15 adaptable dwellings must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility. One disabled parking space must be allocated to each adaptable dwelling.

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

13. 96 off-street car parking spaces and 1 loading/unloading space must be provided and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking. The car parking must be allocated as follows:

- a) 71 spaces being allocated to the residential dwellings;
- b) 15 accessible car parking spaces, 1 accessible car space per adaptable dwelling; and
- c) 10 visitor car parking spaces, 4 of which are designed as accessible spaces.

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

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

14. 5 motorcycle parking spaces must be provided, maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.

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

15. 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.

16. 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.

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

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

Reason: To prevent loss of amenity to the area.

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

Reason: To protect the amenity of the surrounding neighbourhood.

19. Compliance at all times with the recommendations on Page 7 of the Long Nose Bandicoot Assessment of Significance Report, prepared by Ecological Australia dated November 2016.

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

20. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced and does not adversely impact on the visual amenity of the area.

21. 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).

22. Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition. In addition the by-laws of any future residential strata plans created for the property shall reflect this restriction.

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

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

Reason: To provide for adequate site drainage.

24. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.

Reason: To provide for the existing and potential electrical power distribution for this development and for the area.

25. 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.

26. All prescribed trees shall be retained and protected in accordance with these conditions and with the Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 unless their removal, pruning or other works is explicitly approved under the terms of this consent.  
Reason: To clarify that prescribed trees must be retained unless explicit approval is given for their removal.
27. All reasonable directions in writing by the project arborist in relation to tree management and tree protection shall be complied with.  
Reason: To ensure that tree protection is able to be reactive to unforeseen risks and impacts.
28. During construction the project arborist shall undertake periodic inspections of trees and tree protection measures, as detailed in the tree protection plan.  
Reason: To ensure that conditions relating to tree removal, tree protection and tree planting are complied with.
29. 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.
30. No rock anchors/bolts are to be installed into Sydney Trains property or easements.  
Reason: To ensure compliance with Sydney Trains concurrence terms.
31. The applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.  
Reason: To ensure compliance with Sydney Trains concurrence terms.
32. 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.
33. 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.
34. Sydney Trains, Transport for NSW and the Light Rail Operator, or any persons authorised by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.  
Reason: To ensure compliance with Sydney Trains concurrence terms.
35. 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.
36. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail

corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

Reason: To ensure compliance with Sydney Trains concurrence terms.

### **BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK**

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

37. 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.

38. 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.

39. 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.

40. All demolition work must:

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

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

41. 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.

42. 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.

43. 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.

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

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

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

45. 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.

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

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

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

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

47. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the buildings on the adjoining properties at 1-3 Hill Street and 2-4 Grove Street, Dulwich Hill, if the consent of the adjoining property owners can be obtained after reasonable documented attempts. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

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

48. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged to prepare

a Tree Protection Plan for trees on neighbouring properties within 5.0 metres of the property boundaries, which shall be submitted to and approved by Council before work commences.

Note: Council requirements for a tree protection plan are detailed in Marrickville Development Control Plan, Clause 2.20 Appendix 1.

Reason: To ensure trees in neighbouring properties are effectively protected and managed and their stability and ongoing viability are not compromised.

49. A project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

50. The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.

Reason: Council requires details of the project arborist to facilitate communication if required.

51. The tree protection measures detailed in the council-approved tree protection plan shall be established before work commences.

Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised.

52. The project arborist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the council-approved tree protection plan before work commences.

Reason: The project arborist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained are not compromised.

53. 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.

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

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

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

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

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

Reason: To secure the site and to maintain public safety

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

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

58. 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.

59. Prior to the commencement of works the applicant shall peg-out the common property boundary with RailCorp's land. This work is to be undertaken by a registered surveyor.

Reason: To ensure compliance with Sydney Trains concurrence terms.

60. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains/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/Light Rail Operator 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/Light Rail Operator.

Reason: To ensure compliance with Sydney Trains concurrence terms.

61. Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

Reason: To ensure compliance with Sydney Trains concurrence terms.

62. Prior to the commencement of works or before the issue of a Construction Certificate (whichever occurs first), the applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. The Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the applicant on the level of insurance required.

Reason: To ensure compliance with Sydney Trains concurrence terms.

63. Prior to the commencement of works or before the issue of a Construction Certificate (whichever occurs first), the applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. The Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

Reason: To ensure compliance with Sydney Trains concurrence terms.

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

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

64. Section 94 Contribution

- 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 \$1,280,390.54 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 10 November 2017.

- \*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. DC002099)**

- 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	\$140,131.16
Plan Administration	\$25,105.85
Recreation Facilities	\$1,106,023.66
Traffic Facilities	\$9,129.87
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in **cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card\***.

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

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

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

- Machinery to be used during excavation/construction.
- Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- Final stormwater plan showing no discharge into rail corridor and confirmation that there will be no change in the direction or quantity of surface water flows into and within the rail corridor.
- Revised design documentation to be updated to indicate that no temporary support is proposed for the excavation. Soil and weathered bedrock is to be battered and better quality bedrock is to be cut vertically. SW1 will then be constructed within the excavation and backfilled.
- Revised excavation drawings to include location of the 6 monitoring points. Notes on these drawings are to reference the revised Monitoring Plan.
- Revised Survey Monitoring Plan to include, but not limited to:
  - (i) Minimum of 2 sets of baseline readings.
  - (ii) Location of the 6 monitoring points are to be shown on a plan included in the Monitoring Plan



- (iii) Revised Section 5.4 as advised by Sydney Trains in the Design Review Comments Sheet (item 13).
- (iv) Appendices A and B shall include appropriate contacts as advised by Sydney Trains and the Light Rail Operator.
- (v) A requirement that the Applicant's Geotechnical Engineer be involved in Alarm Level 2 and tasked to reviewing as to reasons why the ground is not responding as anticipated.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. In the event that the above documentation requires the amended of the documentation provided in Condition 5 then the Construction Certificate shall be based on the amended documentation endorsed by Sydney Trains.

Reason: To ensure compliance with Sydney Trains concurrence terms.

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

Reason: To ensure compliance with Sydney Trains concurrence terms.

67. 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.

68. 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 and the Light Rail Operator 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.

69. Before the issue of a Construction Certificate the applicant is to submit to Sydney Trains and the Light Rail Operator 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.

70. 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.

71. 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.

72. Before the issue of a Construction Certificate, the landscape and planting plan must be submitted to Sydney Trains for review. The plans must demonstrate that the roots and

foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

73. 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.

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

Please refer to the web site for:

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

or telephone 13 20 92.

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

Reason: To ensure compliance with Sydney Water requirements.

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

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

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

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

77. 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.

78. 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.

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

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

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

81. Noise attenuation measures consistent with the recommendations within the Aircraft Noise Intrusion Report, Report No. 5462-1.1R, prepared by Day Design Pty Limited, dated 2 December 2016 must be incorporated into the development complying with Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" in relation to interior design sound levels and in accordance with details being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2000, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

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

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

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

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

[http://www.lspc.nsw.gov.au/levy\\_information/?levy\\_information/levy\\_calculator.stm](http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm)

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

83. 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

84. Payment of a Bond, in the sum of \$56,000.00 for the proper performance of public domain and stormwater works before the issue of the Construction Certificate. The security may be provided in one of the following methods:-

- i) in full in the form of a cash bond; or
- ii) by provision of a Bank Guarantee by an Australian Bank in the following terms:
  - a) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing.
  - b) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent;

- c) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Reason: To ensure all Road works are completed satisfactorily and within a reasonable time.

85. A long section (1:20) along the vehicle access ramp shall be provided to check the grade transitions in accordance with method at Appendix C of AS2890.1-2004. Particular attention shall be paid to the grade transitions at the top of the ramp. Details of compliance with the above requirements shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure the vehicular access is satisfactory.

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

- i. The public domain along all frontages of the site inclusive of footpath paving, street trees, landscaping, street furniture, etc shall be reconstructed and upgraded in accordance with the Street Tree Masterplan, Marrickville Public Domain Design Guide and Council's Standard Plans;
- 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 (where necessary) 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. Existing sandstone kerb that is in good condition shall be protected and preserved; 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. Note, the cross fall of the footpath shall be set at 2.5%.

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

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

87. Full detailed construction plans and specifications for the extension of the Greenway along the rear of the site must be submitted to Council's Greenway Manager for approval before the issue of a Construction Certificate. The design of the Greenway shall comply with the following requirements:

- i. The Greenway path must be a minimum clear width of 3.5m metres and suitably lit to P3 standard in accordance with AS1158;
- ii. On-grade paths must be constructed from concrete with no tooling and saw cut or trip stop joints as appropriate;
- iii. Elevated path members must be constructed from fibre reinforced plastic (FRP) or steel with FRP decking and galvanised steel balustrades;
- iv. All materials and finishes for elevated paths must match those materials used for the Greenway path through the Arlington Grove development;
- v. The Greenway path must be extended along the entire length of the rear boundary from the elevated path through Arlington Grove (preliminary level RL 20.60m AHD) at the southern boundary and continue north along the boundary with the light rail corridor;
- vi. The connection to Hill Street shall be a minimum 2.5m and constructed in constructing materials; and
- vii. Fencing between the development and the light rail corridor shall be low and unobtrusive, to provide an unobstructed visual link. If trackside fencing has not been put in place fencing shall be 1.8m high powder coated black chain wire.

Reason: To provide for extension of the Greenway.

88. The site stormwater drainage shall be constructed generally in accordance with stormwater drainage plans 1482-SW1b, 1482-SW2c, 1482-SW3c, 1482-SW4a and 1482-SW5a dated 3/11/16 submitted by Michael Ell Consulting Engineers P/L subject to the following amendments;
- Detailed calculations for sizing of the OSD system to be provided for assessment (this shall include the DRAINS files);
  - submission A WSUD Strategy Report and a MUSIC model (.sqz file); and
  - A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.

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

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

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

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

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

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

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

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

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

92. 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.



**SITE WORKS**

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

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

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

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

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

95. 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.

96. 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.

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

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

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

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

99. 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.

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

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

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

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

101. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and

- c) at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice must include complete details of the work.

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

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

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

102. 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.

103. 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.

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

Reason: To provide for correct disposal of wastes.

105. 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.

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

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

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

Reason: To provide for adequate site drainage.

108. 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.

109. Tree protection measures detailed in the council-approved tree protection plan and in Section 4 of Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 shall be implemented and complied with for the duration of works including site preparation, demolition, construction and landscaping (except where these conditions permit otherwise). Any reasonable directions in writing by the Project Arborist relating to tree protection shall be complied with.

Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.

110. Landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the Planting Concept Design and Details (Paul Scrivener Landscape Architecture, 15/12/16) and must be maintained at all times to Council's satisfaction. Specified tree protection measures shall be complied with for all landscaping works, except where these conditions permit otherwise.

Reason: To ensure adequate landscaping is maintained.

111. The new trees listed in the planting schedule of the Planting Concept Design and Details (Paul Scrivener Landscape Architecture, 15/12/16) shall be planted in accordance with the following criteria:

- a) The new trees shall be located in accordance with the submitted landscape plan.
- b) The species of trees and planting stock sizes shall be as detailed in the planting schedule of the Planting Concept Design and Details (Paul Scrivener Landscape Architecture, 15/12/16).
- c) The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
- d) The new trees shall be planted in accordance with the tree planting detail in the Planting Concept Design and Details (Paul Scrivener Landscape Architecture, 15/12/16).
- e) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
- f) Each replacement tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
- g) If any tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

Reason: To ensure that the new trees provide adequate and appropriate compensation, are planted in a suitable location and maintained properly.

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

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

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

113. 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.

114. 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.

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

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

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

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

116. 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.

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

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



118. Upon completion of the development, a statement from a qualified Architect, verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, 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.

119. 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”.

120. 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.

121. 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.

122. 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.

123. Before the issue of an Occupation Certificate the applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Certifying Authority must receive written confirmation from Sydney Trains that this condition has been satisfied.  
Reason: To ensure compliance with Sydney Trains concurrence terms.
124. The applicant must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains before the issue of an Occupation Certificate. The Certifying Authority must receive written confirmation from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.  
Reason: To ensure compliance with Sydney Trains concurrence terms.
125. The project arborist shall certify in writing to the Principal Certifying Authority (PCA) before the issue of the Occupation Certificate that the conditions of consent relating to tree protection and tree planting have been 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 from the conditions. The Principal Certifying Authority shall report breaches of the conditions to Inner West Council.  
Reason: To ensure that conditions that aim to ensure the sustainability of Inner West urban forest are complied with.
126. 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.
127. 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
128. 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.
129. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.  
Reason: To ensure that items of local heritage value are preserved.
130. Heavy duty concrete vehicle crossing and footpath, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.  
Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.

131. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.  
Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.
132. The existing damaged or otherwise defective kerb and gutter, footpath and/or road pavement adjacent to the site shall be restored in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before the issue of the Occupation Certificate.  
Reason: To provide suitable means of public road vehicle and pedestrian access to the development and to ensure that the amenity of the area is in keeping with the standard of the development.
133. A public right-of-way for pedestrian and bicycles must be created over the whole length of the Greenway along the rear boundary adjacent to the light rail corridor and providing a connection to Hill Street. The public right-of-way must be registered on the Certificate of Title before the issue of any Occupation Certificate (interim or final) so as to allow access through the site for the general public.  
Reason: To provide for public access through the site.
134. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage, re-use and quality measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. The Certificate shall also state that no dry-weather flows of seepage or groundwater have been connected to any kerb outlets. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.  
Reason: To ensure drainage works are constructed in accordance with approved plans.
135. 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.
136. 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.

137. 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 \$5,000.00 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.

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

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

### **ADVISORY NOTES**

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

BASIX Information                      ☎ 1300 650 908 weekdays 2:00pm - 5:00pm  
[www.basix.nsw.gov.au](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 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	 131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	 13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	 1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	 13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** the Department of Planning and Environment be advised, as part of the quarterly review of the monitoring of Clause 4.6 of Marrickville Local Environmental Plan 2011 – Exceptions to Development Standards, that Council has agreed to the variation of the following development standards:

<u>Premises:</u>	1A Hill Street, Dulwich Hill
<u>Applicant:</u>	Peter & Irene Andrews Super Fund Pty Ltd
<u>Proposal:</u>	To demolish the existing improvements and construct a 9 storey residential flat building comprising 71 dwellings with 3 levels of basement car parking
<u>Determination:</u>	Approval subject to conditions
<u>DA No:</u>	201600662
<u>Lot and DP:</u>	Lot 11 DP 1184304
<u>Category of Development:</u>	4
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	R1 - General Residential
<u>Development Standard(s) varied:</u>	Clause 4.3 – Height of Building Clause 4.4 – Floor Space Ratio
<u>Justification of variation:</u>	The proposal satisfies the building envelope controls; provides high residential amenity; results in no unreasonable amenity impacts to adjoining properties; is consistent with the objectives of the development standard and the respective zone; and is appropriate in the context.
<u>Extent of variation:</u>	Height 2.6 metres (5.5%) FSR - 727m <sup>2</sup> (14%)
<u>Concurring Authority:</u>	Sydney Central Planning Panel under assumed concurrence of the Secretary Department of Planning and Environment
<u>Date of Determination:</u>	



- C. **THAT** those persons who lodged submissions in respect to the proposal be advised of the Council's determination of the application.